CPMG / KA / BG-GPO-13 / 2003-2005



ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

ಸಂಪುಟ ೧೩೮	ಬೆಂಗಳೂರು, ಗುರುವಾರ, ಅಕ್ಟೋಬರ್ ೧೬, ೨೦೦೩ (ಆಶ್ವಯುಜ ೨೪, ಶಕ ವರ್ಷ ೧೯೨೫)	ಸಂಚಿಕೆ ೪೧

ಭಾಗ - ೪

ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು, ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು.

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi- 110 001
NOTIFICATION No. ಸಿಆಸುಇ/ 4/ ಚತಅ/ 03, Bangalore, Dated: 1st September 2003

10, Bhadrapada, 1925 (Saka)

No. 82/ KT-LA/ 26/ 99/ 2002.- In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the Judgement/ Order of the High Court of Karnataka, Bangalore, dated 4-4-2003 in Election Petition No. 26 of 1999.

IN THE HIGH COURT OF KARNATAKA AT BANGALORE
DATED THIS THE 4th DAY OF APRIL 2003
BEFORE
THE HON'BLE Mr. JUSTICE N. KUMAR
ELECTION PETITION No. 26/ 1999

BETWEEN:

1. Basavaraju N. S/o. Nanjarajaiah, Aged About 59 years,
   R/o. Biladale Kodihalli Hobli, Kanakapura Taluk,
   Bangalore Rural District.
2. A. C. Shivaraju, S/o. Chikkamarigowda, Aged about 38 years, R/o. Achalu
   Village, Sathanur Hobli, Kanakapura Taluk,
   Bangalore Rural District.
3. Siddalingaiah, S/o. Manchegowda, Aged About 25 years,
   R/o. Eregowdana Doddi, Alantha Post, Kodihalli Hobli, Kanakapura Taluk,
   Bangalore Rural District.
4. Shivanna, (Deleted Vide C/o. Dated 16-8-2000) ......PETITIONERS

(By Sri M. R. Rajagopal, Adv.,)

AND:

1. Shivakumar D. K. S/o. Kempegowda, Aged 40 years,
   R/o. Dodda Alahalli, Uyyamballi Hobli, Kanakapura Taluk, Bangalore Rural District.

ALSO AT:

1. Shivakumar D. K. S/o. Kempegowda, Aged 40 years,
   Minister for Co-operation Government of Karnataka, Vidhana Soudha, Bangalore.
2. Kumaraswamy H. D. S/o. H. D. Devegowda,
   No. 286, 2nd Main, 3rd Phase, J. P. Nagar, Bangalore- 560 078.

3. Cheluvaiah, S/o. Cheluvaiah,
   No. 256 A, II Main, 7th Block, Banashankari 3rd Phase, Bangalore- 85.
4. Basavaraju H. R. S/o. H. M. Rudraiah,
   No. 64, 4th A Cross-, I Stage, 5th Main, West of Chord Road, Bangalore- 560 044.
5. The Returning Officer, No. 92, Sathanur Assembly Constituency,
   Office of the Tahsildar, Kanakapura Taluk, Bangalore Rural District. RESPONDENTS

(By M/s. Law Associates for R1;
Sri D. L. Jagadeesh, Adv., For R-2,
Sri Kamalesh Pujari, Adv., For R-3 & 4)

This Election Petition is filed under Section 81 of the Representation of the People Act, 1951, by the Petitioner Candidate at 1999 General Election to the Karnataka Legislative Assembly Constituency No. 92 of Sathanur Assembly Constituency, Kanakapura Taluk, Held on 11-9-1999 praying to Declare the Election of a returned candidate i.e., 1st respondent as void, In view of section 100 clause (b) (d) clause (ii) & (iv) of The R. P. Act 1951 as well as on the ground of section 123 (1) (A) (b), 123 (3), 123 (4), 123 (6) of The R. P. Act 1951 and Etc.,

This Petition coming on for evidence this day, the court made the following:

ORDER

Petitioners have filed this Election Petition under Section 81 of the Representation of the People Act, 1951 seeking the following declarations:

(a) Declare the election of a returned candidate i. e., 1st respondent as Void in view of Section 100 clause (s) (d) clause (ii) & (iv) of the R. P. Act 1951 as well as on the ground of Section 123 (1) (A) (b), 123 (3), 123 (4), 123 (6) of the R. P. Act 1951.

(b) Further declare that the next highest votes secured candidate i. e. 2nd respondent to be declared as elected from the No. 92 of Sathanur Assembly Constituency, Kanakapura Taluk, Bangalore Rural District or direct afresh election to said constituency in accordance with law.

(c) Disqualify the 1st respondent for such period as provided under the law from contesting to any general elections.

(d) Make an order U/s 98 of R. P. Act, 1951 that the Respondent No. 1 has committed a corrupt practice and name other persons so committed.

2. The above election petition was presented on 20-11-1999. The respondents, after service of notice, entered appearance and filed their written statement on 3-3-2000. Thereafter, 1st respondent made an application -I. A. I. for striking out paragraphs 10 to 29 of the petition and consequent dismissal of the above election petition. The said application was opposed by the petitioners. Arguments were heard and this court by an order dated 29-9-2000 rejected the said application and posted the case to 20.10.2000 for framing of issues. The said order of this Court was challenged by the 1st respondent before the Supreme Court in Civil Appeal No. 7951/ 2001. All further proceedings before this Court was stayed pending disposal of the said appeal on merits. The said appeal came to be disposed of on 19-9-2002 with the following observations:

"It cannot be said that the learned Judge committed any error in directing the parties to proceed further after framing of the issues. However, it is made clear that no issue would be framed pertaining to incidents and allegations which are relating to corrupt practices alleged to have been committed prior to the date of submission of nomination papers filed by the returned candidate. With this Clarification, this appeal is allowed to the aforesaid extent. The appeal stands disposed of accordingly. There shall be no order as to costs".

3. After the aforesaid order of the Supreme Court, the election petition was listed before this Court on 29-1-2003. On that day, after hearing the parties and taking note of the fact that the Supreme Court has disposed of the appeal to enable the Court to frame issues, parties were directed to file draft issues by 11-2-2003. On 11-2-2003, parties filed the draft issues. Therefore, the case was adjourned to 18-2-2003 for framing of issues. On 18-2-2003, issues were framed and the case was directed to be posted on 26-2-2003 and the parties were directed to file list of witnesses within seven days. On 26.02.2003, petitioners filed the list of witnesses and respondents submitted that except the respondents, they do not propose to examine any other witnesses. Therefore, the case was posted for evidence on 06.03.2003, at 2.30 p. m. on 6-3-2003 the petitioners, instead of adducing evidence, came up with an application under Order 14 Rule 5 of CPC for framing an additional issue. The said application was opposed orally by the 1st respondent. After hearing both the parties, the said application for framing of an additional issue was dismissed and the case was adjourned to 13-3-2003 for evidence. Even on 13-3-2003, instead of adducing evidence, petitioners came up with an application for amendment of the election petition. The case was adjourned to 19-3-2003 for objections if any and for evidence. On 19/3/2003, counsel for the respondents sought for a day's accommodation and the case was adjourned to

20-3-2003. On 20-3-2003, it was adjourned to 24-3-2003. On 24-3-2003, objections were filed and the said application was taken up for consideration. After hearing both the parties. I. A. 2/ 03 filed for amendment of the election petition was rejected on payment of cost of Rs. 2,000/- and the case was posted finally to 28-3-2003 for evidence of the petitioners. Again on 28-3-2003, petitioners did not show any inclination to adduce evidence. On the contrary, the learned counsel for the petitioners submitted that the petitioners intend challenging the order passed by this Court rejecting the application for amendment and on that ground, he sought for two weeks time. This Court, on the said request, observed that preferring a Special Leave Petition against the order rejecting the amendment application has nothing to do with leading evidence in respect of the allegations already contained in the election petition. Therefore, the request of the petitioners for adjournment for two weeks to enable them to prefer an appeal against the order was rejected. However, as a last chance, the case was adjourned by a week on payment of cost of Rs. 5,000/. That is how the case is listed today before the Court for evidence.

4. Today, the learned counsel appearing for the Petitioners Sri M. R. Rajagopal, submits that the petitioners are not inclined to adduce evidence in support of the election petition and still, they intend to challenge the order passed by this Court dismissing the amendment application. Therefore, he requested the Court to adjourn the case beyond summer vacation.

5. Section 86 of the Act deals with trial of election petitions. Subsection (6) of Section 86 provides that the trial of an election petition shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day until its conclusion, unless the High Court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded. Subsection (7) of Section 86 provides that every election petition shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date on which the election petition is presented to the High Court for trial. Therefore, it is clear that there is a statutory mandate for the court to conclude the trial of an election petition within six months from the date on which the election petition is presented to the High Court for trial and so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day until its conclusion, unless the High Court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded. The intention of the Legislature in providing those provisions is for speedy trial of the election petitions and the entire trial should be over within six months. The law places an obligation on the Judge trying an election petition to try it as expeditiously as possible and make an endeavour to conclude the trial within six months from the date on which the election petition is presented. It is not a pious wish. The judge is obliged to give effect to the law.

6. In the instant case, the election petition is presented on 20-11-1999. The election petition ought to have been disposed of on or before May 2000. Because of the application filed and the arguments canvassed on the application for striking down certain paragraphs in the election petition, the order rejecting the said application came to be passed on 29-9-2000 in fact after the period or 6 months prescribed under the law. On the said order being challenged before the Supreme Court, the entire proceedings before the Court remained stayed till 19-9-2002. Even after 6 months after the disposal of the matter before the Supreme Court, the trial in the election petition is yet to begin. On the day the case was posted for evidence, the petitioners come with an application for framing of an additional issue. The said application was heard and disposed of on the very same day and the case was posted finally for evidence. Again, the petitioners are not inclined to adduce any evidence and they come with an application for amendment of the election petition. After the said application was dismissed, they want the further proceedings in the election petition be stayed or adjourned till they approach the Supreme Court and the legality of the order dismissing the amendment application is considered and decided by the Supreme Court. Notwithstanding the fact that their request for adjournment was refused and costs of Rs. 5,000/- was imposed to see that they do not drag on the proceedings and lead evidence, all this has no effect on the petitioners. The sequence of events narrated supra makes it very clear that the petitioners are in no mood to go on with the trial. It is obvious from the conduct of the petitioners that this election petition is filed only for the purpose of publicity and cheap popularity. It is clear that the judicial process is abused and there is no seriousness on the part of the petitioners in prosecuting the election petition. When the petitioners are not inclined to go on with the matter and not prepared to enter the box to substantiate the allegations made in the election petition, this Court is not expected to continue the proceedings endlessly and grant adjournments for mere asking by the petitioners. In this regard, one has to bear in mind the amendment to the code of Civil Procedure, prescribing limitations on the power of the Court to grant adjournments also. Under the circumstances, I am of the opinion that the petitioners have not made out any good ground for granting any further adjournments. When the petitioners refuse to enter the box and prosecute the election petition. I am constrained to dismiss this election petition for non-

prosecution. Accordingly, the election petition is dismissed for non- prosecution. Petitioners are directed to pay Rs. 10,000/- as the costs of this petition to the 1st respondent.

Judge.

FORMAL ORDER
IN THE HIGH COURT OF KARNATAKA AT BANGALORE
DATED THIS THE 4th DAY OF APRIL 2003
BEFORE
THE HON'BLE Mr. JUSTICE N. KUMAR
ELECTION PETITION No. 26/ 1999

BETWEEN:

1. Basavaraju N. S/o. Nanjarajaiah, Aged About 59 years,
   R/o. Biladale Kodihalli Hobli, Kanakapura Taluk,
   Bangalore Rural District.
2. A. C. Shivaraju, S/o. Chikkamarigowda, Aged about 38 years, R/o. Achalu
   Village, Sathanur Hobli, Kanakapura Taluk,
   Bangalore Rural District.
3. Siddalingaiah, S/o. Manchegowda, Aged About 25 years,
   R/o. Eregowdana Doddi, Alantha Post, Kodihalli Hobli, Kanakapura Taluk,
   Bangalore Rural District.
4. Shivanna, (Deleted Vide C/o. Dated 16-8-2000) ......PETITIONERS

(By Sri M. R. Rajagopal, Adv.,)

AND:

1. Shivakumar D. K. S/o. Kempegowda, Aged 40 years,
   R/o. Dodda Alahalli, Uyyamballi Hobli, Kanakapura Taluk, Bangalore Rural District.

ALSO AT:

1. Shivakumar D. K. S/o. Kempegowda, Aged 40 years,
   Minister for Co-operation Government of Karnataka, Vidhana Soudha, Bangalore.
2. Kumaraswamy H. D. S/o. H. D. Devegowda,
   No. 286, 2nd Main, 3rd Phase, J. P. Nagar, Bangalore- 560 078.
3. Cheluvaiah, S/o. Cheluvaiah,
   No. 256 A, II Main, 7th Block, Banashankari 3rd Phase, Bangalore- 85.
4. Basavaraju H. R. S/o. H. M. Rudraiah,
   No. 64, 4th A Cross-, I Stage, 5th Main, West of Chord Road, Bangalore- 560 044.
5. The Returning Officer, No. 92, Sathanur Assembly Constituency,
   Office of the Tahsildar, Kanakapura Taluk, Bangalore Rural District. RESPONDENTS

(By M/s. Law Associates for R-1;
Sri D. L. Jagadeesh, Adv., For R-2,
Sri Kamalesh Pujari, Adv., For R-3 & 4)

The Election Petition is filed U/s. 81 of the Representation of People Act, 1951, by the petitioner candidate at 1999 General Election to the Karnataka Legislative Assembly Constituency No. 92, Sathanur Assembly Constituency held on 11-9-1999 praying to declare the Election of returned candidate i. e. 1st Respondent as void, and etc.,

This Election Petition coming on for evidence from 6-3-2003 to 4-4-2003. The Hon'ble Court passed the Order on 4-4-2003, in the presence of Sri M. R. Rajagopal and Sri Veerabhadraiah, Advocates for petitioner, and M/s. Law Associates - by Sri S. Shivanand and N. G. Vijayakumar, Advocates for Respondent No. 1, and Sri D. L. Jagadeesh, Advocate for Respondent No. 2 and Sri Kamalesh Pujari, Advocate for Respondent No. 3 and 4, and that for the reasons stated in the order, it is ordered and decreed that the election petition be and the same is hereby dismissed for non- prosecution.

It is further ordered and decreed that the petitioners do pay the cost of Rs. 10.000/- (Rupees Ten Thousand only) to the First Respondent.

Registrar (Judicial).

P. R. 66

By order,
TAPAS KUMAR
Secretary, Election Commission of India.

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 46 ಕೇಶಾಪ್ರ 2003, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 23ನೇ ಆಗಸ್ಟ್, 2003

2003ನೇ ಸಾಲಿನ ಜೂನ್ ತಿಂಗಳ 2ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 1ರಲ್ಲಿ ಪ್ರಕಟವಾದ The Electricity Act 2003 ಇದನ್ನು ಸಾರ್ವಜನಿಕ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF LAW AND JUSTICE
(LEGISLATIVE DEPARTMENT)
New Delhi, the 2nd June, 2003/ Jyaistha 12, 1925 (Saka)

The following Act of Parliament received the assent of the President on the 26th May 2003, and is hereby published for general information:

THE ELECTRICITY ACT, 2003
No. 36 of 2003
[26th May 2003]

An Act to consolidate the laws relating to generation, transmission, distribution, trading and use of electricity and generally for taking measures conducive to development of electricity industry, promoting competition therein, protecting interest of consumers and supply of electricity to all areas, rationalisation of electricity tariff, ensuring transparent policies regarding subsidies, promotion of efficient and environmentally benign policies constitution of Central Electricity Authority, Regulatory Commissions and establishment of Appellate Tribunal and for matters connected therewith or incidental thereto.

Be it enacted by parliament in the Fifty -Fourth year of the Republic of India as follows: -

PART - I
PRELIMINARY

1. Short title, extent and commencement: - (1) This Act may be called the Electricity Act, 2003

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification, appoint;

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. Definitions: - In this Act, unless the context otherwise requires, -

(1) "Appellate Tribunal" means the Appellate tribunal for Electricity established under Section 110;

(2) "Appointed date," means such date as the Central Government may, by notification, appoint;

(3) "Area of supply" means the area within which a distribution licensee is authorised by his licence to supply electricity;

(4) "Appropriate Commission" means the Central Regulatory Commission referred to in sub-section (1) of section 76 or the State Regulatory Commission referred to in section 82 or the Joint Commission referred to in section 83, as the case may be;

(5) "Appropriate Government" means,-

(a) The Central Government,-

(i) In respect of a generating company wholly or partly owned by it;

(ii) In relation to any inter-State generation, transmission, trading or supply of electricity and with respect to any mines, oil-fields, railways, national highways, airports, telegraphs, broadcasting stations and any works of defence, dockyard, nuclear power installations;

(iii) In respect of the National Land Dispatch Centre and Regional Load Dispatch Centre;

(iv) In relation to any works or electric installation belonging to it or under its control;

(b) in any other case, the State Government having jurisdiction under this Act;

(6) "Authority" means the Central Electricity Authority referred to in sub-section (1) of section 70;

(7) "Board" means a State Electricity Board, constituted before the commencement of this Act, under sub-section (1) of section 5 of the Electricity (Supply) Act, 1948 (54 of 1948).

(8) "Captive generating plant" means a power plant set up by any person to generate electricity primarily for his own use and includes a power plant set up by any co-operative society or association of persons for generating electricity primarily for use of members of such co-operative society or association;

(9) "Central Commission" means the Central Electricity Regulatory Commission referred to in sub-section (1) of section 76;

(10) "Central Transmission Utility" means any- Government Company, which the Central Government may notify under sub- section (1) of section 38;

(11) "Chairperson" means the Chairperson of the Authority or Appropriate Commission or the Appellate Tribunal, as the case may be;

(12) "Cogeneration" means a process which simultaneously produces two or more forms of useful energy (including electricity);

(13) "Company" means a company formed and registered under the Companies Act, 1956 and includes any body corporate under a Central, State or Provincial Act; (1 of 1956);

(14) "Conservation" means any reduction in consumption of electricity as a result of increase in the efficiency in supply and use of electricity;

(15) "Consumer" means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be;

(16) "Dedicated transmission lines" means any electric supply-line for point to point transmission which are required for the purpose of connecting electric lines or electric plants of a captive generating plant referred to in section 9 or generating station referred to in section 10 to any transmission lines or sub-stations or generating stations, or the load centre, as the case may be;

(17) "Distribution licensee" means a licensee authorised to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply;

(18) "Distributing main" means the portion of any main with which a service line is, or is intended to be, immediately connected;

(19) "Distribution system" means the system of wires and associated facilities between the delivery points on the transmission lines or the generating station connection and the point of connection to the installation of the consumers;

(20) "Electric line" means any line, which is used for carrying electricity for any purpose and includes-

(a) Any support for any such line, that is to say, any structure, tower, pole or other thing in, on, by or from which any such line is, or may be, supported, carried or suspended; and

(b) Any apparatus connected to any such line for the purpose of carrying electricity;

(21) "Electrical Inspector" means a person appointed as such by the Appropriate Government under sub-section (1) of section 162 and also includes Chief Electrical Inspector;

(22) "Electrical Plant" means any plant, equipment, apparatus or appliance or any part thereof used for, or connected with, the generation, transmission, distribution or supply of electricity but does not include-

(a) An electric line; or

(b) A meter used for ascertaining the quantity of electricity supplied to any premises; or

(c) An electrical equipment, apparatus or appliance under the control of a consumer;

(23) "Electricity" means electrical energy-

(a) Generated, transmitted, supplied or traded for any purpose; or

(b) Used for any purpose except the transmission of a message;

(24) "Electricity Supply Code" means the Electricity Supply Code specified under section 50;

(25) "Electricity System" means a system under the control of a generating company or licensee, as the case may be, having one or more-

(a) Generating stations; or

(b) Transmission lines; or

(c) Electric lines and sub- stations,

and when used in the context of a State or the Union, the entire electricity system within the territories thereof;

(26) "Electricity Trader" means a person who has been granted a licence to undertake trading in electricity under section 12;

(27) "Franchisee" means a person authorised by a distribution licensee to distribute electricity on its behalf in a particular area within his area of supply;

(28) "Generating company" means any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person, which owns or operates or maintains a generating station;

(29) "Generate" means to produce electricity from a generating station for the purpose of giving supply to any premises or enabling a supply to be so given;

(30) "Generating station" or "station" means any station for generating electricity, including any building and plant with step-up transformer, switch-gear, switch yard, cables or other appurtenant equipment, if any, used for that purpose and the site thereof; a site intended to be used for a generating station, and any building used for housing the operating staff of a generating station, and where electricity is generated by water- power, includes penstocks, head and tail works, main and regulating reservoirs, dams and other hydraulic works, but does not in any case include any sub-station;

(31) "Government Company" shall have the meaning assigned to it in section 617 of the Companies Act, 1956 (1 of 1956);

(32) "Grid" means the high voltage backbone system of inter-connected transmissions lines, sub-station and generating plants;

(33) "Grid Code" means the Grid Code specified by the Central Commission under clause (h) of sub-section (1) of section 79;

(34) "Grid Standards" means the Grid Standards specified under clause (d) of section 73 by the Authority;

(35) "High Voltage line" means an electric line or cable of a nominal voltage as may be specified by the Authority from time to time;

(36) "Inter -State transmission system" includes-

(i) Any system for the conveyance of electricity by means of main transmission line from the territory of one State to another State.

(ii) The conveyance of electricity across the territory of an intervening State as well as conveyance within the State which is incidental to such inter State transmission of electricity;

(iii) The transmission of electricity within the territory of a State on a system built, owned, operated, maintained or controlled by a Central Transmission Utility;

(37) "Intra-State transmission system" means any system for transmission of electricity other than an inter-State transmission system;

(38) "Licence" means a licence granted under section 14;

(39) "Licensee" means a person who has been granted a licence under section 14;

(40) "Line" means any wire, cable, tube, pipe, insulator, conductor or other similar thing (including its casing or coating) which is designed or adapted for use in carrying electricity and includes any line which surrounds or supports, or is surrounded or supported by or is installed in close proximity to, or is supported, carried or suspended in association with, any such line;

(41) "Local authority" means any Nagar Panchayat, Municipal Council, Municipal Corporation, Panchayat constituted at the village, intermediate and district levels, body of port commissioners or other authority legally entitled to, or entrusted by the Union or any State Government with, the control or management of any area or local fund;

(42) "Main" means any electric supply-line through which electricity is, or is intended to be, supplied;

(43) "Member" means the Member of the Appropriate Commission or Authority or Joint Commission, or the Appellate Tribunal, as the case may be, and includes the Chairperson of such Commission or Authority or Appellate Tribunal;

(44) "National Electricity Plan" means the National Electricity Plan notified under sub-section (4) of section 4;

(45) "National Load Dispatch Centre" means the Centre established under sub-section (1) of section 26;

(46) "Notification" means notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(47) "Open access" means the non- discriminatory provision for the use of transmission lines or distribution system or associated facilities with such lines or system by any licensee or consumer or a person engaged in generation in accordance with the regulations specified by the Appropriate Commission;

(48) "Over head line" means an electric line which is placed above the ground and in the open air but does not include live rails of a traction system;

(49) "Person" shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;

(50) "Power system" means all aspects of generation, transmission, distribution and supply of electricity and includes one or more of the following, namely:-

(a) generating stations;
(b) transmission or main transmission lines.
(c) sub-stations;
(d) tie- lines;
(e) load despatch activities;
(f) mains or distribution mains;
(g) electric supply - lines;
(h) overhead lines;
(i) service lines;
(j) works;

(51) "Premises" includes any land, building or structure;

(52) "Prescribed" means prescribed by rules made by the Appropriate Government under this Act;

(53) "Public Lamp" means as electric lamp used for the lighting of any street;

(54) "Real time Operation" means action to be taken at a given time at which information about the electricity system is made available to the concerned Load Despatch Centre;

(55) "Regional Power Committee" means a committee established by resolution by the Central Government for a specified region for facilitating the integrated operation of the power system in that region;

(56) "Regional Load Dispatch Centre" means the Centre established under sub-section (1) of section 27;

(57) "Regulations" means regulations made under this Act;

(58) "Repealed laws" means the Indian Electricity Act, 1910, the Electricity (Supply) Act, 1948 (9of 1910), and the Electricity Regulatory Commissions Act, 1988 (54 of 1948) repealed by section 185 (14 of 1998);

(59) "Rules" means rules made under this Act;

(60) "Schedule" means the Schedule to this Act;

(61) "Service- line" means any electric supply- line through which electricity is, or is intended to be, supplied-

(a) to a single consumer either from a distributing main or immediately from the Distribution Licensee's premises; or

(b) from a distributing main to a group of consumers on the same premises or on contiguous premises supplied from the same point of the distributing main;

(62) "Specified" means specified by regulations made by the Appropriate Commission or the Authority, as the case may be, under this Act;

(63) "Stand alone system" means the electricity system set-up to generate power and distribute electricity in a specified area without connection to the grid;

(64) "State Commission" means the State Electricity Regulatory Commission constituted under sub-section (1) of section 82 and includes a Joint Commission constituted under sub-section (1) of section 83;

(65) "State Grid Code" means the State Grid Code specified under clause (h) of sub-section (1) of section 86;

(66) "State Load Despatch Centre" means the centre established under sub-section (1) of section 31;

(67) "State Transmission Utility" means the Board or the Government Company specified as such by the State Government under sub-section (1) of section 39;

(68) "Street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way and also the roadway and footway over any public bridge or causeway;

(69) "Sub-section" means a station for transforming or converting electricity for the transmission or distribution thereof and includes transformers, converters, switchgears, capacitors, synchronous condensers, structures, cable and other appurtenant equipment and any buildings used for that purpose and the site thereof;

(70) "Supply", in relation to electricity, means the sale of electricity to a licensee or consumer;

(71) "trading" means purchase of electricity for resale thereof and the expression "trade" shall be construed accordingly;

(72) "Transmission lines" means all high pressure cables and over head lines (not being an essential part of the distribution system of a licensee) transmitting electricity from a generating station to another generating station or a sub-section, together with any step up and step down transformers, switch gear and other works necessary to and used for the control of such cables or overhead lines, and such buildings or part thereof as may be required to accommodate such transformers, switch gear and other works;

(73) "Transmission Licensee" means a licensee authorised to establish or operate transmission lines;

(74) "Transmit" means conveyance of electricity by means of transmission lines and the expression "transmission" shall be construed accordingly;

(75) "Utility" means the electric lines or electrical plant, and includes all lands, buildings, works and materials attached thereto belonging to any person acting as a generating company or licensee under the provisions of this Act;

(76) "Wheeling" means the operation whereby the distribution system and associated facilities of a transmission licensee or distribution licensee, as the case may be, are used by another person for the conveyance of electricity on payment of charges to be determined under section 62;

(77) "Works" includes electric line, and any building, plant, machinery, apparatus and any other thing of whatever description required to transmit, distribute or supply electricity to the public and to carry into effect the objects of a licence or sanction granted under this Act or any other law for the time being in force.

PART - II
NATIONAL ELECTRICITY POLICY AND PLAN

3. National Electricity Policy and Plan:- (1) The Central Government shall, from time to time, prepare the National Electricity Policy and tariff policy, in consultation with the State Governments and the Authority for development of the power system based on optimal utilisation of resources such as coal, natural gas, nuclear substances or materials, hydro and renewable sources of energy.

(2) The Central Government shall publish the National Electricity Policy and tariff policy from time to time.

(3) The Central Government may, from time to time, in consultation with the State Governments and the Authority, review or revise the National Electricity Policy and tariff policy referred to in sub-section (1).

(4) The Authority shall prepare a National Electricity Plan in accordance with the National Electricity Policy and notify such plan once in five years;

Provided that the Authority while preparing the National Electricity Plan shall publish the draft National Electricity Plan and invite suggestions and objections thereon from licensees, generating companies and the public within such time as may be prescribed:

Provided further that the Authority shall-

(a) Notify the plan after obtaining the approval of the Central Government;

(b) Revise the plan incorporating therein the directions, if any, given by the Central Government while granting approval under clause (a).

(5) The Authority may review or revise the National Electricity Plan in accordance with the National Electricity Policy.

4. National policy on stand alone systems for rural areas and non- conventional energy systems:- The Central Government shall, after consultation with the State Governments, prepare and notify a national policy, permitting stand-alone systems (including those based on renewable sources of energy and other non - conventional sources of energy) for rural areas.

4. National policy on stand alone systems for rural areas and non-conventional energy systems:- The Central Government shall, after consultation with the State Governments, prepare and notify a notify a national policy, permitting stand-alone systems (including those based on renewable sources of energy and other non- conventional sources of energy) for rural areas.

5. National policy on electrification and local distribution in rural areas:- The Central Government shall also formulate a national policy, in consultation with the State Governments and the State Commissions, for rural electrification and for bulk purchase of power and management of local distribution in rural areas through Panchayat Institutions, user's associations, Co-Operative societies, non- Governmental organisations or franchisees.

6. Obligations to supply electricity to rural areas:- The Appropriate Government shall endeavour to supply electricity to all areas including villages and hamlets.

PART-III
GENERATION OF ELECTRICITY

7. Generating company and requirement for setting up of generating station:- Any generating company may establish, operate and maintain a generating station without obtaining a licence under this Act if it complies with the technical standards relating to connectivity with the grid referred to in clause (b) of section 73.

8. Hydroelectric generation:- (1) Notwithstanding anything contained in section 7, any generating company intending to set up a hydro-generating station shall prepare and submit to the authority for its concurrence, a scheme estimated to involve a capital expenditure exceeding such sum, as may be fixed by the Central Government, from time to time, by notification.

(2) The Authority shall, before concurring in any scheme submitted to it under sub-section (1) have particular regard to, whether or not in its opinion,-

(a) The proposed river- works will prejudice the prospects for the best ultimate development of the river or its tributaries for power generation, consistent with the requirements of drinking water, irrigation, navigation, flood- control, or other public purposes, and for this purpose the Authority shall satisfy itself, after consultation with the State Government, the Central Government, or such other agencies as it may deem appropriate, that an adequate study has been made of the optimum location of dams and other river- works;

(b) The proposed scheme meets the norms regarding dam design and safety.

(3) Where a multi-purpose scheme for the development of any river in any region is in operation, the State Government and the generating company shall co-ordinate their activities with the activities of the persons responsible for such scheme in so far as they are inter related.

9. Captive Generation:- (1) Notwithstanding anything contained in this Act, a person may construct, maintain or operate a captive generating plant and dedicated transmission lines;

Provided that the supply of electricity from the captive generating plant through the grid shall be regulated in the same manner as the generating station of a generating company.

(2) Every person, who has constructed a captive generating plant and maintains and operates such plant, shall have the right to open access for the purposes of carrying electricity from his captive generating plant to the destination of his use;

Provided that such open access shall be subject to availability of adequate transmission facility and such availability of transmission facility shall be determined by the Central Transmission utility or the State Transmission Utility, as the case may be:

Provided further that any dispute regarding the availability of transmission facility shall be adjudicated upon by the Appropriate Commission.

10. Duties of generating companies:- (1) Subject to the provisions of this Act, the duties of a generating company shall be to establish, operate and maintain generating stations, tie- lines, sub-stations and dedicated transmission lines connected therewith in accordance with the provisions of this Act or the rules or regulations made thereunder.

(2) A generating company may supply electricity to any licensee in accordance with this Act and the rules and regulations made thereunder and may, subject to the regulations made under sub-section (2) of section 42, supply electricity to any consumer.

(3) Every generating company shall-

(a) submit technical details regarding its generating stations to the Appropriate Commission and the Authority;

(b) Co-ordinate with the Central Transmission Utility or the State Transmission Utility, as the case may be, for transmission of the electricity generated by it.

11. Directions to generating companies:- (1) The Appropriate Government may specify that a generating company shall, in extraordinary circumstances operate and maintain any generating station in accordance with the directions of that Government.

Explanation:- For the purposes of this Section, the expression "extraordinary circumstances" means circumstances arising out of threat to security of the State, public order or a natural calamity or such other circumstances arising in the public interest.

(2) The Appropriate Commission may offset the adverse financial impact of the directions referred to in sub-section (1) on any generating company in such manner as it considers appropriate.

PART - IV
LICENSING

12. Authorised persons to transmit, supply etc., electricity:- No person shall-

(a) transmit electricity ; or
(b) distribute electricity; or
(c) undertake trading in electricity,

unless he is authorised to do so by a licence issued under section 14, or is exempt under section 13.

13. Power to exempt:- The Appropriate Commission may, on the recommendations of the Appropriate Government, in accordance with the national policy formulated under section 5 and in the public interest, direct, by notification that subject to such conditions and restrictions, if any, and for such period or periods, as may be specified in the notification, the provisions of section 12 shall not apply to any local authority, Panchayat Institution, users' association, co-operative societies, non- governmental organisations, or franchisees.

14. Grant of licence:- The Appropriate Commission may, on an application made to it under section 15, grant a licence to any person-

(a) to transmit electricity as a transmission licensee; or
(b) to distribute electricity as a distribution licensee; or
(c) to undertake trading in electricity as an electricity trader,

in any area as may be specified in the licence:

Provided that any person engaged in the business of transmission or supply of electricity under the provisions of the repealed laws or any Act specified in the Schedule on or before the appointed date shall be deemed to be a licensee under this Act for such period as may be stipulated in the licence, clearance or approval granted to him under the repealed laws or such Act specified in the Schedule and the

provisions of the repealed laws or such Act specified in the schedule in respect of such licence shall apply for a period of one year from the date of commencement of this Act or such earlier period as may be specified, at the request of the licensee, by the Appropriate Commission and thereafter the provisions of this Act shall apply to such business:

Provided further that the Central Transmission Utility or the State Transmission Utility shall be deemed to be a transmission licensee under this Act:

Provided also that in case an Appropriate Government transmits electricity or distributes electricity or undertakes trading in electricity, whether before or after the commencement of this Act, such Government shall be deemed to be a licensee under this Act, but shall not be required to obtain a licence under this Act;

Provided also that the Damodar Valley Corporation, established under sub-section (1) of section 3 of the Damodar Valley Corporation Act, 1948 (14 of 1948), shall be deemed to be a licensee under this Act but shall not be required to obtain a licence under this Act and the provisions of the Damodar Valley Corporation Act, 1948, in so far as they are not inconsistent with the provisions of this Act, shall continue to apply to that Corporation:

Provided also that the Government Company or the company referred to in sub-section (2) of section 131 of this Act and the company or companies created in pursuance of the Acts specified in the Schedule, shall be deemed to be a licensee under this Act:

Provided also that the Appropriate Commission may grant a licence to two or more persons for distribution of electricity through their own distribution system within the same area, subject to the conditions that the applicant for grant of licence within the same area shall, without prejudice to the other conditions or requirements under this Act, comply with the additional requirements (including the capital adequacy, creditworthiness, or code of conduct) as may be prescribed by the Central Government, and no such applicant, who complies with all the requirements for grant of licence, shall be refused grant of licence on the ground that there already exists a licensee in the same area for the same purpose:

Provided also that in a case where a distribution licensee proposes to undertake distribution of electricity for a specified area within his area of supply through another person, that person shall not be required to obtain any separate licence from the concerned State Commission and such distribution licensee shall be responsible for distribution of electricity in his area of supply:

Provided also that where a person intends to generate and distribute electricity in a rural area to be notified by the State Government, such person shall not require any licence for such generation and distribution of electricity, but he shall comply with the measures, which may be specified by the Authority under section 53:

Provided also that a distribution licensee shall not require a licence to undertake trading in electricity.

15. Procedure for grant of licence:- (1) Every application under section 14 shall be made in such form and in such manner as may be specified by the Appropriate Commission and shall be accompanied by such fee as may be prescribed.

(2) Any person who has made an application for grant of a licence shall, within seven days after making such application, publish a notice of his application with such particulars and in such manner as may be specified and a licence shall not be granted-

(i) until the objections, if any, received by the Appropriate Commission in response to publication of the application have been considered by it:

Provided that no objection shall be so considered unless it is received before the expiration of thirty days from the date of publication of the notice as aforesaid;

(ii) until, in the case of an application for a licence for an area including the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, the Appropriate Commission has ascertained that there is no objection to the grant of the licence on the part of the Central Government.

(3) A person intending to act as a transmission licensee shall, immediately on making the application, forward a copy of such application to the Central Transmission Utility or the State Transmission Utility, as the case may be.

(4) The Central Transmission Utility or the State Transmission Utility, as the case may be, shall, within thirty days after the receipt of the copy of the application referred to in sub-section (3), send its recommendations, if any, to the Appropriate Commission:

Provided that such recommendations shall not be binding on the Commission.

(5) Before granting a licence under section 14, the Appropriate Commission shall-

(a) publish a notice in two such daily newspapers, as that Commission may consider necessary, stating the name and address of the person to whom it proposes to issue the licence;

(b) consider all suggestions or objections and the recommendations, if any, of the Central Transmission Utility or the State Transmission Utility, as the case may be.

(6) Where a person makes an application under sub-section (1) of section 14 to act as a licensee, the Appropriate Commission shall, as far as practicable, within ninety days after receipt of such application,-

(a) issue a licence subject to the provisions of this Act and the rules and regulations made thereunder; or

(b) reject the application for reasons to be recorded in writing if such application does not conform to the provisions of this Act or the rules and regulations made there under or the provisions of any other law for the time being in force:

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.

(7) The Appropriate Commission shall, immediately after issue of a licence, forward a copy of the licence to the Appropriate Government, Authority, local authority, and to such other person as the Appropriate Commission considers necessary.

(8) A licence shall continue to be in force for a period of twenty -five years unless such licence is revoked.

16. Conditions of licence:- The Appropriate Commission may specify any general or specific conditions which shall apply either to a licensee or class of licensees and such conditions shall be deemed to be conditions of such licence:

Provided that the Appropriate Commission shall, within one year from the appointed date, specify any general or specific conditions of licence applicable to the licensees referred to in the first, second, third, fourth and fifth provisos to section 14 after the expiry of one year from the commencement of this Act.

17. Licensee not to do certain things:- (1) No licensee shall, without prior approval of the Appropriate Commission,-

(a) undertake any transaction to acquire by purchase to takeover or otherwise, the utility of any other licensee; or

(b) merge his utility with the utility of any other licensee:

Provided that nothing contained in this sub-section shall apply if the utility of the licensee is situate in a State other than the State in which the utility referred to in clause (a) or clause (b) is situate.

(2) Every licensee shall, before obtaining the approval under sub-section (1), give not less than one month's notice to every other licensee who transmits or distributes, electricity in the area of such licensee who applies for such approval.

(3) No licensee shall at any time assign his licence or transfer his utility, or any part thereof, by sale, lease, exchange or otherwise without the prior approval of the Appropriate Commission.

(4) Any agreement, relating to any transaction specified in sub-section (1) or subsection (3), unless made with the prior approval of the Appropriate Commission, shall be void.

18. Amendment of licence:- (1) Where in its opinion the public interest so permits, the Appropriate Commission, may, on the application of the licensee or otherwise, make such alterations and amendments in the terms and conditions of his licence as it thinks fit:

Provided that no such alterations or amendments shall be made except with the consent of the licensee unless such consent has, in the opinion of the Appropriate Commission, been unreasonably withheld.

(2) Before any alterations or amendments in the licence are made under this section, the following provisions shall have effect, namely:-

(a) where the licensee has made an application under sub-section (1) proposing any alteration of modifications in his licence, the licensee shall publish a notice of such application with such particulars and in such manner as may be specified;

(b) in the case of an application proposing alterations or modifications in the area of supply comprising the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or any building or place in the occupation of the Government for defence purposes, the Appropriate Commission shall not make any alterations or modifications except with the consent of the Central Government;

(c) Where any alterations or modifications in a licence are proposed to be made otherwise than on the application of the licensee, the Appropriate Commission shall publish the proposed alterations or modifications with such particulars and in such manner as may be specified;

(d) the Appropriate Commission shall not make any alterations or modifications unless all suggestions or objections received within thirty days from the date of the first publications of the notice have been considered.

19. Revocation of licence:- (1) if the Appropriate Commission, after making an enquiry, is satisfied that public interest so requires, it may revoke a licence in any of the following cases, namely:-

(a) where the licensee, in the opinion of the Appropriate Commission, makes wilful and prolonged default in doing anything required of him by or under this act or the rules or regulations made thereunder;

(b) where the licensee breaks any of the terms or conditions of his licence the breach of which is expressly declared by such licence to render it liable to revocation;

(c) where the licensee fails, within the period fixed in this behalf by his licence, or any longer period which the Appropriate Commission may have granted therefor-

(i) to show, to the satisfaction of the Appropriate Commission, that he is in a position fully and efficiently to discharge the duties and obligations imposed on him by his licence; or

(ii) to make the deposit or furnish the security, or pay the fees or other charges required by his licence;

(d) where in the opinion of the Appropriate Commission the financial position of the licensee is such that he is unable fully and efficiently to discharge the duties and obligations imposed on him by his licence.

(2) Where in its opinion the public interest so requires, the Appropriate Commission may, on application, or with the consent of the licensee, revoke his licence as to the whole or any part of his area of distribution or transmission or trading upon such terms and conditions as it thinks fit.

(3) No licence shall be revoked under sub-section (1) unless the Appropriate Commission has given to the licensee not less than three months notice, in writing, stating the grounds on which it is proposed to revoke the licence, and has considered any cause shown by the licensee within the period of that notice, against the proposed revocation.

(4) The Appropriate Commission may, instead of revoking a licence under sub-section (1), permit it to remain in force subject to such further terms and conditions as it thinks fit to impose, and any further terms and conditions so imposed shall be binding upon and be observed by the licensee and shall be of like force and effect as if they were contained in the licence.

(5) Where the Commission revokes a licence under this section, it shall serve a notice of revocation upon the licensee and fix a date on which the revocation shall take effect.

(6) Where the Appropriate Commission has given notice for revocation of licence under sub-section (5), without prejudice to any penalty which may be imposed or prosecution proceeding which may be initiated under this Act, the licensee may, after prior approval of that Commission, sell his utility to any person who is found eligible by the Commission for grant of licence.

20. Sale of utilities of licensees:- (1) Where the Appropriate Commission revokes under section 19 the licence of any licensee, the following provisions shall apply, namely:-

(a) the Appropriate Commission shall invite applications for acquiring the utility of the licensee whose licence has been revoked ad determine which of such applications should be accepted, primarily on the basis of the highest and best price offered for the utility;

(b) the Appropriate Commission may, by notice in writing, require the licensee to sell his utility and thereupon the licensee shall sell his utility to the person (hereafter in this section referred to as the "purchaser") whose application has been accepted by that Commission;

(c) all the rights, duties, obligations and liabilities of the licensee. on and from the date of revocation of licence or on and from the date, if earlier, on which the utility of the licensee is sold to a purchaser, shall absolutely cease except for any liabilities which have accrued prior to that date;

(d) the Appropriate Commission make such interim arrangements in regard to the operation of the utility as may be considered appropriate including the appointment of Administrators;

(e) the Administrator appointed under clause (d) shall exercise such powers and discharge such functions as the Appropriate Commission may direct.

(2) Where a utility is sold under sub-section (1), the purchaser shall pay to the licensee the purchase price of the utility in such manner as may be agreed upon.

(3) Where the Appropriate Commission issues any notice under sub-section (1) requiring the licensee to sell the utility, it may, by such notice, require the licensee to deliver the utility, and thereupon the licensee shall deliver on a date specified in the notice, the utility to the designated purchaser on payment of the purchase price thereof.

(4) Where the licensee has delivered the utility referred to in sub-section (3) to the purchaser but its sale has not been completed by the date fixed in the notice issued under that sub-section, the

Appropriate Commission may, if it deems fit, permit the intending purchaser to operate and maintain the utility system pending the completion of the sale.

21. Vesting of utility in purchaser:- Where a utility is sold under section 20 or section 24, then, upon completion of the sale or on the date on which the utility is delivered to the intending purchaser, as the case may be, whichever is earlier-

(a) the utility shall vest in the purchaser or the intending purchaser, as the case may be, free from any debt, mortgage or similar obligation of the licensee or attaching to the utility:

Provided that any such debt, mortgage or similar obligation shall attach to the purchase money in substitution for the utility; and

(b) the rights, powers, authorities, duties and obligations of the licensee under his licence shall stand transferred to the purchaser and such purchaser shall be deemed to be the licensee.

22. Provisions where no purchase takes place:- (1) If the utility is not sold in the manner provided under section 20 or section 24, the Appropriate Commission may, to protect the interest of consumers or in the public interest, issue such directions or formulate such scheme as it may deem necessary for operation of the utility.

(2) Where no directions are issued or scheme is formulated by the Appropriate Commission under sub-section (1), the licensee referred to in section 20 or section 24 may dispose of the utility in such manner as it may deem fit;

Provided that, if the licensee does not dispose of the utility, within a period of six months from the date of revocation, under section 20 or section 24, the Appropriate Commission may cause the works of the licensee in, under, over, along, or across any street or public land to be removed and every such street or public land to be reinstated, and recover the cost of such removal and reinstatement from the licensee.

23. Directions to licensees:- If the Appropriate Commission is of the opinion that is necessary or expedient so to do for maintaining the efficient supply, securing the equitable distribution of electricity and promoting competition, it may, by order, provide for regulating supply, distribution, consumption or use thereof.

24. Suspension of distribution licence and sale of utility:- (1) If at any time the Appropriate Commission is of the opinion that a distribution licensee-

(a) has persistently failed to maintain uninterrupted supply of electricity conforming to standards regarding quality of electricity to the consumers; or

(b) is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(c) has persistently defaulted in complying with any direction given by the Appropriate Commission under this Act; or

(d) has broken the terms and conditions of licence,

and circumstances exist which render it necessary for it in public interest so to do, the Appropriate Commission may, for reasons to be recorded in writing, suspend, for a period not exceeding one year, the licence of the distribution licensee and appoint an Administrator to discharge the functions of the distribution licensee in accordance with the terms and conditions of the licence;

Provided that before suspending a licence under this section, the Appropriate Commission shall give a reasonable opportunity to the distribution licensee to make representations against the proposed suspension of licence and shall consider the representations, if any, of the distribution licensee.

(2) Upon suspension of licence under sub-section (1), the utilities of the distribution licensee shall vest in the Administrator for a period not exceeding one year or up to the date on which such utility is sold in accordance with the provisions contained in section 20, whichever is later.

(3) The Appropriate Commission shall, within one year of appointment of the Administrator under sub-section (1), either revoke the licence in accordance with the provisions contained in section 19 or revoke suspension of the licence and restore the utility to the distribution licensee whose licence had been suspended, as the case may be.

(4) In a case where the Appropriate Commission revokes the licence under sub- section (3), the utility of the distribution licensee shall be sold within a period of one year from the date of revocation of the licence in accordance with the provisions of section 20 and the price after deducting the administrative and other expenses on sale of utilities be remitted to the distribution licensee.

PART-V
TRANSMISSION OF ELECTRICITY
Inter -State transmission

25. Inter-State, regional and inter-regional transmission:- For the purposes of this Part, the Central Government may, make region-wise demarcation of the country, and from time to time, make

such modifications therein as it may consider necessary for the efficient, economical and integrated transmission and supply of electricity, and in particular to facilitate voluntary inter- connections and co-ordination of facilities for the inter-State, regional and inter-regional generation and transmission of electricity.

26. National Load Dispatch Centre:- (1) The Central Government may establish a centre at the national level, to be known as the National Load Despatch Centre for optimum scheduling and despatch of electricity among the Regional load Despatch Centres.

(2) The constitution and functions of the National Load Despatch Centre shall be such as may be prescribed by the Central Government:

Provided that the National Load Despatch Centre shall not engage in the business of trading in electricity.

(3) The National Load Despatch Centre shall be operated by a Government Company or any authority or corporation established or constituted by or under any Central Act, as may be notified by the Central Government.

27. Constitution of Regional Load Despatch Centre:- (1) The Central Government shall establish a Centre for each region to be known as the Regional Load Despatch Centre having territorial jurisdiction as determined by the Central Government in accordance with section 25 for the purposes of exercising the powers and discharging the functions under this Part.

(2) The Regional Load Despatch Centre shall be operated by a Government company or any authority or corporation established or constituted by or under any Central Act, as may be notified by the Central Government:

Provided that until a Government company or authority or corporation referred to in this sub-section is notified by the Central Government, the Central Transmission Utility shall operate the Regional Load Despatch Centre:

Provided further that no Regional Load Despatch Centre shall engage in the business of generation of electricity or trading in electricity.

28. Functions of Regional Load Despatch Centre:- (1) The Regional Load Despatch Centre shall be the apex body to ensure integrated operation of the power system in the concerned region.

(2) The Regional Load Despatch Centre shall comply with such principles, guidelines and methodologies in respect of wheeling and optimum scheduling and despatch of electricity as the Central Commission may specify in the Grid Code.

(3) The Regional Load Despatch Centre shall-

(a) be responsible for optimum scheduling and despatch of electricity within the region, in accordance with the contracts entered into with the licensees or the generating companies operating in the region;

(b) monitor grid operations;

(c) keep accounts of quantity of electricity transmitted through the regional grid;

(d) exercise supervision and control over the inter state transmission system; and

(e) be responsible for carrying out real time operations for grid control and despatch of electricity within the region through secure and economic operation of the regional grid in accordance with the Grid Standards and the Grid Code.

(4) The Regional Load Despatch Centre may levy and collect such fee and charges from the generating companies or licensees engaged in inter-state transmission of electricity as may be specified by the Central Commission.

29. Compliance of directions:- (1) The Regional Load Despatch Centre may give such directions and exercise such supervision and control as may be required for ensuring stability of grid operations and for achieving the maximum economy and efficiency in the operation of the power system in the region under its control.

(2) Every licensee, generating company, generating station, sub-station and any other person connected with the operation of the power system shall comply with the directions issued by the Regional Load Despatch Centres under sub-section (1).

(3) All directions issued by the Regional Load Despatch Centres to any transmission licensee of State Transmission lines or any other licensee of the State or generating company (other than those connected to inter-State transmission system) or sub-station in the State shall be issued through the State Load Despatch Centre and the State Load Despatch Centres shall ensure that such directions are duly complied with by the licensee or generating company or sub-station.

(4) The Regional Power Committee in the region may, from time to time, agree on matters concerning the stability and smooth operation of the integrated grid and economy and efficiency in the operation of the power system in that region.

(5) If any despute arises with reference to the quality of electricity or safe, secure and integrated operation of the regional grid or in relation to any direction given under sub-section (1), it shall be referred to the Central Commission for decision;

Provided that pending the decision of the Central Commission, the directions of the Regional Load Despatch Centre shall be complied with by the State Load Despatch Centre or the licensee or the generating company, as the case may be.

(6) If any licensee, generating company or any other person fails to comply with the directions issued under sub-section (2) or sub-section (3), he shall be liable to a penalty not exceeding rupees fifteen lacs.

INTRA-STATE TRANSMISSION

30. Transmission within a State:- The State Commission shall facilitate and promote transmission, wheeling and inter-connection arrangements within its territorial jurisdiction for the transmission and supply of electricity by economical and efficient utilisation of the electricity.

31. Constitution of State Load Despatch Centres:-(1) The State Government shall establish a centre to be known as the State Load despatch Centre for the purpose of exercising the powers and discharging the functions under this Part.

(2) The State Load Despatch Centre shall be operated by a Government company or any authority or corporation established or constituted by or under any State Act, as may be notified by the State Government:

Provided that until a Government company or any authority or corporation is notified by the State Government, the State Transmission Utility shall operate the State Load Despatch Centre;

Provided further that no State Load Despatch Centre shall engage in the business of trading in electricity.

32. Functions of State Load Despatch Centres:- (1) The State Load Despatch Centre shall be the apex body to ensure integrated operation of the power system in a State.

(2) The State Load Despatch Centre shall-

(a) be responsible for optimum scheduling and despatch of electricity within a State, in accordance with the Contracts entered into with the licensees or the generating companies operating in that State;

(b) monitor grid operations;

(c) Keep accounts of the quantity of electricity transmitted through the State grid;

(d) exercise supervision and control over the intra-State transmission system; and

(e) be responsible for carrying out real time operation for grid control and despatch of electricity within the State through secure and economic operation of the State grid in accordance with the Grid Standards and the State Grid Code.

(3) The State Load Despatch Centre may levy and collect such fee and charges from the generating companies and licensees engaged in intra-State transmission of electricity as may be specified by the State Commission.

33. Compliance of directions:- (1) The State Load Despatch Centre in a State may give such directions and exercise such supervision and control as may be required for ensuring the integrated grid operations and achieving the maximum economy and efficiency in the operation of power system in that State.

(2) Every licensee, generating company, generating station, sub-station and any other person connected with the operation of the power system shall comply with the directions issued by the State Load Despatch Centre under sub-section (1).

(3) The State Load Despatch Centre shall comply with the directions of the Regional Load Despatch Centre.

(4) If any dispute arises with reference to the quality of electricity or safe, secure and integrated operation of the State grid or in relation to any direction given under sub-section (1), it shall be referred to the State Commission for decision:

Provided that pending the decision of the State Commission, the directions of the State Load Despatch Centre shall be complied with by the licensee or generating company.

(5) If any licensee, generating company or any other person fails to comply with the directions issued under sub-section (1), he shall be liable to a penalty not exceeding rupees five lacs.

OTHER PROVISIONS RELATING TO TRANSMISSION

34. Grid Standards:- Every transmission licensee shall comply with such technical standards, of operation and maintenance of transmission lines, in accordance with the Grid Standards as may be specified by the Authority.

35. Intervening transmission facilities:-The Appropriate Commission may, on the application by any licensee, by order require any other licensee owning or operating intervening transmission facilities to provide the use of such facilities to the extent of surplus capacity available with such licensee:

Provided that any dispute, regarding the extent of surplus capacity available with the licensee, shall be adjudicated upon by the Appropriate Commission.

36. Charges for intervening transmission facilities:- (1) Every licensee shall, on an order made under section 35, provide his intervening transmission facilities at rates, charges and terms and conditions as may be mutually agreed upon:

Provided that the Appropriate Commission may specify rates, charges and terms and conditions if these cannot be mutually agreed upon by the licensees.

(2) The rates, charges and terms and conditions referred to in sub-section (1) shall be fair and reasonable, and may be allocated in proportion to the use of such facilities.

Explanation,- For the purposes of section 35 and 36, the expression "intervening transmission facilities" means the electric lines owned or operated by a licensee where such electric lines can be utilised for transmitting electricity for and on behalf of another licensee at his request and on payment of a tariff or charge.

37. Directions by Appropriate Government:- The Appropriate Government may issue directions to the Regional Load Dispatch Centres or State Load Despatch Centers, as the case may be, to take such measures as may be necessary for maintaining smooth and stable transmission and supply of electricity to any region or State.

38. Central Transmission Utility and functions:- (1) The Central Government may notify any Government company as the Central Transmission Utility:

Provided that the Central Transmission Utility shall not engage in the business of generation of electricity or trading in electricity;

Provided further that the Central Government may transfer, and vest any property interest in property, rights and liabilities connected with, and personnel involved in transmission of electricity of such Central Transmission Utility, to a company or companies to be incorporated under the Companies Act, 1956 (1 of 1956) to function as a transmission licensee, through a transfer scheme to be effected in the manner specified under Part-XIII and such company or companies shall be deemed to be transmission licensees under this Act.

(2) The functions of the Central Transmission Utility shall be-

(a) to undertake transmission of electricity through inter-State transmission system:

(b) to discharge all functions of planning and co-ordination relating to inter-State transmission system with-

(i) State Transmission Utilities:
(ii) Central Government;
(iii) State Governments
(iv) Generating Companies;
(v) Regional Power Committees;
(vi) Authority;
(vii) Licensees;
(viii) any other person notified by the Central Government in this behalf.

(c) to ensure development of an efficient, co-ordinated and economical system of inter-State transmission lines for smooth flow of electricity from generating stations to the load centres;

(d) to provide non-discriminatory open access to its transmission system for use by-

(i) any licensee or generating company on payment of the transmission charges; or

(ii) any consumer as and when such open access is provided by the State Commission under sub-section (2) of section 42, on payment of the transmission charges and a surcharge thereon, as may be specified by the Central Commission:

Provided that such surcharge shall be utilised for the purpose of meeting the requirement of current level cross- subsidy:

Provided further that such surcharge and cross subsidies shall be progressively reduced and eliminated in the manner as may be specified by the Central Commission:

Provided also that such surcharge may be levied till such time the cross subsidies are not eliminated:

Provided also that the manner of payment and utilisation of the surcharge shall be specified by the Central Commission:

Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.

39. State Transmission Utility and functions:- (1) The State Government may notify the Board or a Government company as the State Transmission Utility:

Provided that the State Transmission Utility shall not engage in the business of trading in electricity:

Provided further that the State Government may transfer, and vest any property, interest in property, rights and liabilities connected with, and personnel involved in transmission of electricity, of such State Transmission Utility, to a company or companies to be incorporated under the Companies Act, 1956 (1 of 1956) to function as transmission licensee through a transfer scheme to be effected in the manner specified under part XIII and such company or companies shall be deemed to be transmission licensees under this Act.

(2) The functions of the State Transmission Utility shall be-

(a) to undertake transmission of electricity through intra-State transmission system;

(b) to discharge all functions of planning and co-ordination relating to intra-State transmission system with-

(i) Central Transmission Utility;

(ii) State Governments;

(iii) Generating companies;

(iv) Regional Power Committees;

(v) Authority;

(vi) Licensees;

(vii) any other person notified by the State Government in this behalf;

(c) to ensure development of an efficient, co-ordinated and economical system of intra-state transmission lines for smooth flow of electricity from a generating station to the load centres;

(d) to provide non- discriminatory open access to its transmission system for use by-

(i) any licensee or generating company on payment of the transmission charges; or

(ii) any consumer as and when such open access is provided by the State Commission under sub-section (2) of section 42, on payment of the transmission charges and a surcharge thereon, as may be specified by the State Commission;

Provided that such surcharge shall be utilised for the purpose of meeting the requirement of current level cross- subsidy:

Provided further that such surcharge and cross subsidies shall be progressively reduced and eliminated in the manner as may be specified by the State Commission:

Provided also that such surcharge may be levied till such time the cross subsidies are not eliminated:

Provided also that the manner of payment and utilisation of the surcharge shall be specified by the State Commission:

Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.

40. Duties of transmission licensees:- It shall be the duty of a transmission licensee-

(a) to build, maintain and operate an efficient, co-ordinated and economical inter-State transmission system or intra-State transmission system, as the case may be;

(b) to comply with the directions of the Regional Load Despatch Centre and the State Load Despatch Centre as the case may be;

(c) to provide non- discriminatory open access to its transmission system for use by-

(i) any licensee or generating company on payment of the transmission charges; or

(ii) any consumer as and when such open access is provided by the State Commission under sub-section (2) of section 42, on payment of the transmission charges and a surcharge thereon, as may be specified by the State Commission:

Provided that such surcharge shall be utilised for the purpose of meeting the requirement of current level cross- subsidy:

Provided further that such surcharge and cross subsidies shall be progressively reduced and eliminated in the manner as may be specified by the Appropriate Commission:

Provided also that such surcharge may be levied till such time the cross subsidies are not eliminated;

Provided also that the manner of payment and utilisation of the surcharge shall be specified by the Appropriate Commission:

Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.

41. Other business of transmission licensee:- A transmission licensee may, with prior intimation to the Appropriate Commission, engage in any business for optimum utilisation of its assets:

Provided that a proportion of the revenues derived from such business shall, as may be specified by the Appropriate Commission, be utilised for reducing its charges for transmission and wheeling:

Provided further that the transmission licensee shall maintain separate accounts for each such business undertaking to ensure that transmission business neither subsidies in any way such business undertaking nor encumbers its transmission assets in any way to support such business:

Provided also that no transmission licensee shall enter into any contract or otherwise engage in the business of trading in electricity.

PART-VI
DISTRIBUTION OF ELECTRICITY
Provisions with respect to distribution licensees

42. Duties of distribution licensee and open access:- (1) It shall be the duty of a distribution licensee to develop and maintain an efficient, co-ordinated and economical distribution system in his area of supply and to supply electricity in accordance with the provisions contained in this Act.

(2) The Sate Commission shall introduce open access in such phases and subject to such conditions, (including the cross subsidies, and other operational constraints) as may be specified within one year of the appointed date by it and in specifying the extent of open access in successive phases and in determining the charges for wheeling, it shall have due regard to all relevant factors including such cross subsidies, and other operational constraints:

Provided that such open access may be allowed before the cross subsidies are eliminated on payment of a surcharge in addition to the charges for wheeling as may be determined by the State Commission:

Provided further that such surcharge shall be utilised to meet the requirements of current level of cross subsidy within the area of supply of the distribution licensee:

Provided also that such surcharge and cross subsidies shall be progressively reduced and eliminated in the manner as may be specified by the State Commission.

Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.

(3) Where any person, whose premises are situated within the area of supply of a distribution licensee, (not being a local authority engaged in the business of distribution of electricity before the appointed date) requires a supply of electricity from a generating company or any licensee other than such distribution licensee, such person may, by notice, require the distribution licensee for wheeling such electricity in accordance with regulations made by the State Commission and the duties of the distribution licensee with respect to such supply shall be of a common carrier providing non- discriminatory open access.

(4) Where the State Commission permits a consumer or class of consumers to receive supply of electricity from a person other than the distribution licensee of his area of supply, such consumer shall be liable to pay an additional surcharge on the charges of wheeling, as may be specified by the State Commission, to meet the fixed cost of such distribution licensee arising out of his obligation to supply.

(5) Every distribution licensee shall, within six months from the appointed date or date of grant of licence, whichever is earlier, establish a forum for redressal of grievances of the consumers in accordance with the guidelines as may be specified by the State Commission.

(6) Any consumer, who is aggrieved by non- redressal of his grievances under sub-section (5), may make a representation for the redressal of his grievance to an authority to be known as Ombudsman to be appointed or designated by the State Commission.

(7) The Ombudsman shall settle the grievance of the consumer within such time and in such manner as may be specified by the State Commission.

(8) The provisions of sub-sections (5), (6) and (7) shall be without prejudice to right which the consumer may have apart from the rights conferred upon him by those sub-sections.

43. Duty to supply on request:- (1) Every distribution licensee, shall on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply:

Provided that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission:

Provide further that in case of village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period, as it may consider necessary for electrification of such village or hamlet or area.

(2) It shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for giving electric supply to the premises specified in sub-section (1):

Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price as determined by the Appropriate Commission.

(3) If a distribution licensee fails to supply the electricity within the period specified in sub-section (1), he shall be liable to a penalty, which may extend to one thousand rupees for each day of default.

44. Exceptions from duty to supply electricity:- Nothing contained in section 43 shall be taken as requiring a distribution licensee to give supply or electricity to any premises if he is prevented from so doing by cyclone, floods, storms or other occurrences beyond his control.

45. Power to recover charges:- (1) Subject to the provisions of this section, the prices to be charged by a distribution licensee for the supply of electricity by him in pursuance of section 43 shall be in accordance with such tariffs fixed from time to time and conditions of his licence.

(2) The charges for electricity supplied by a distribution licensee shall be-

(a) fixed in accordance with the methods and the principles as may by specified by the concerned State Commission;

(b) published in such manner so as to give adequate publicity for such charges and prices.

(3) The charges for electricity supplied by a distribution licensee may include-

(a) a fixed charge in addition to the charge for the actual electricity supplied;

(b) a rent or other charges is respect of any electric meter or electrical plant provided by the distribution licensee.

(4) Subject to the provisions of section 62, in fixing charges under this section a distribution licensee shall not show undue preference to any person or class of persons or discrimination against any person or class of persons.

(5) The charges fixed by the distribution licensee shall be in accordance with the provisions of this Act and the regulations made in this behalf by the concerned State Commission.

46. Power to recover expenditure:- The State Commission may, by regulations, authorise a distribution licensee to charge from a person requiring a supply of electricity in pursuance of section 43 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply.

47. Power to require security:- (1) Subject to the provisions of this section, a distribution licensee may require any person, who requires a supply of electricity in pursuance of section 43, to give him reasonable security, as may be determined by regulations, for the payment to him of all monies which may become due to him-

(a) in respect of the electricity supplied to such person: or

(b) where any electric line or electrical plant or electric meter is to be provided for supplying electricity to such person, in respect of the provision of such line or plant or meter,

and if that person fails to give such security, the distribution licensee may, if he thinks fit, refuse to give the supply of electricity or to provide the line or plant or meter for the period during which the failure continues.

(2) Where any person has not given such security as is mentioned in sub-section (1) or the security given by any person has become invalid or insufficient, the distribution licensee may, by notice, require that person, within thirty days after the service of the notice, to give him reasonable security for the payment of all monies which may become due to him in respect of the supply of electricity or provision of such line or plant or meter.

(3) If the person referred to in sub-section (2) fails to give such security, the distribution licensee may, if he thinks fit, discontinue the supply of electricity for the period during which the failure continues.

(4) The distribution licensee shall pay interest equivalent to the bank rate or more, as may be specified by the concerned State Commission, on the security referred to in sub-section (1) and refund such security on the request of the person who gave such security.

(5) A distribution licensee shall not be entitled to require security in pursuance of clause (a) of sub-section (1) if the person requiring the supply is prepared to take the supply through a pre-payment meter.

48. Additional terms of supply:- A distribution licensee may require any person who requires a supply of electricity in pursuance of section 43 to accept-

(a) any restrictions which may be imposed for the purpose of enabling the distribution licensee to comply with the regulations made under section 53.

(b) any terms restricting any liability of the distribution licensee for economic loss resulting from negligence of the person to whom the electricity is supplied.

49. Agreements with respect to supply or purchase of electricity:- Where the Appropriate Commission has allowed open access to certain consumers under section 42, such consumers, notwithstanding the provisions contained in clause (d) of sub-section (1) of section 62, may enter into an agreement with any person for supply or purchase of electricity on such terms and conditions (including tariff) as may be agreed upon by them.

50. The Electricity Supply Code:- The State Commission shall specify an Electricity Supply Code to provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply of electricity for non-payment thereof, restoration of supply of electricity, tampering, distress or damage to electrical plant, electric lines or meter, entry of distribution licensee or any person acting on his behalf for disconnecting supply and removing the meter, entry for replacing, altering or maintaining electric lines or electrical plant or meter.

51. Other businesses of distribution licensees:- A distribution licensee may, with prior intimation to the Appropriate Commission, engage in any other business for optimum utilisation of its assets:

Provided that a proportion of the revenues derived from such business shall, as may be specified by the concerned State Commission, be utilised for reducing its charges for wheeling.

Provided further that the distribution licensee shall maintain separate accounts for each such business undertaking to ensure that distribution business neither subsidise in any way such business undertaking nor encumbers its distribution assets in any way to support such business:

Provided also that nothing contained in this section shall apply to a local authority engaged, before the commencement of this Act, in the business of distribution of electricity.

Provisions with respect to electricity traders

52. Provisions with respect to electricity trader:- (1) Without prejudice to the provisions contained in clause (c) of section 12, the Appropriate Commission may, specify the technical requirement, capital adequacy requirement and credit worthiness for being an electricity trader.

(2) Every electricity trader shall discharge such duties, in relation to supply and trading in electricity, as may be specified by the Appropriate Commission.

Provisions with respect to supply generally

53. Provision relating to safety and electricity supply:- The Authority may, in consultation with the State Government, specify suitable measures for -

(a) protecting the public (including the persons engaged in the generation, transmission or distribution or trading) from dangers arising from the generation, transmission or distribution or trading of electricity, or use of electricity supplied or installation, maintenance or use of any electric line or electrical plant;

(b) eliminating or reducing the risks of personal injury to any person, or damage to property of any person or interference with use of such property;

(c) prohibiting the supply or transmission of electricity except by means of a system which conforms to the specifications as may be specified;

(d) giving notice in the specified form to the Appropriate Commission and the Electrical Inspector, of accidents and failures of supplies or transmissions of electricity;

(e) Keeping by a generating company or licensee the maps, plans and sections relating to supply or transmission of electricity;

(f) Inspection of maps, plans and sections by any person authorised by it or by Electrical Inspector or by any person on payment of specified fee;

(g) specifying action to be taken in relation to any electric line or electrical plant, or any electrical appliance under the control of a consumer for the purpose of eliminating or reducing the risk of personal injury or damage to property or interference with its use.

54. Control of transmission and use of electricity:- (1) Save as otherwise exempted under this Act, no person other than the Central Transmission Utility or a State Transmission Utility, or a licensee shall transmit or use electricity at a rate exceeding two hundred and fifty watts and one hundred volts-

(a) in any street, or

(b) in any place,-

(i) in which one hundred or more persons are ordinarily likely to be assembled, or

(ii) which is a factory within the meaning of the Factories Act, 1948 (63 of 1948), or a mine within the meaning of the Mines Act, 1952 (35 of 1952); or

(iii) to which the State Government, by general or special order, declares the provisions of this sub-section to apply,

without giving, before the commencement of transmission or use of electricity, not less than seven days' notice in writing of his intention to the Electrical Inspector and to the District Magistrate or the Commissioner of Police, as the case may be, containing particulars of the electrical installation and plant, if any, the nature and the purpose of supply and complying with such of the provisions of Part XVII of this Act, as may be applicable:

Provided that nothing in this section shall apply to electricity used for the public carriage of passengers, animals or goods, on, or for the lighting or ventilation or the rolling stock of any railway or tramway subject to the provisions of the Railways Act, 1989 (24 of 1989).

(2) Where any difference or dispute arises as to whether a place is or is not one in which one hundred or more persons are ordinarily likely to be assembled, the matter shall be referred to the State Government, and the decision of the State Government thereon shall be final.

(3) The provisions of this section shall be binding on the Government.

55. Use etc. of meters:- (1) No licensee shall supply electricity, after the expiry of two years from the appointed date, except through installation of a correct meter in accordance with the regulations to be made in this behalf by the Authority:

Provided that the licensee may require the consumer to give him security for the price of a meter and enter into an agreement for the hire thereof, unless the consumer elects to purchase a meter:

Provided further that the State Commission may, by notification, extend the said period of two years for a class or classes of persons or for such area as may be specified in that notification.

(2) For proper accounting and audit in the generation, transmission and distribution or trading or electricity, the Authority may direct the installation of meters by a generating company or licensee at such stages of generation, transmission or distribution or trading of electricity and at such locations of generation, transmission or distribution or trading, as it may deem necessary.

(3) If a person makes default in complying with the provisions contained in this section or the regulations made under sub-section (1), the appropriate Commission may make such order as it thinks fit for requiring the default to be made good by the generating company or licensee or by any officers of a company or other association or any other person who is responsible for its default.

56. Disconnection of supply in default of payment:- (1) Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days' notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer:

Provided that the supply of electricity shall not be cut off if such person deposits, under protest,-

(a) an amount equal to the sum claimed from him, or

(b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the proceeding six months,

whichever is less, pending disposal of any dispute between him and the licensee.

(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.

CONSUMER PROTECTION: STANDARDS OF PERFORMANCE

57. Standards of performance of licensee:- (1) The Appropriate Commission may, after consultation with the licensees and persons likely to be affected, specify standards of performance of a licensee or a class of licensees.

(2) If a licensee fails to meet the standards specified under sub-section (1), without prejudice to any penalty which may be imposed or prosecution be initiated, he shall be liable to pay such compensation to the person affected as may be determined by the Appropriate Commission:

Provided that before determination of compensation, the concerned licensee shall be given a reasonable opportunity of being heard.

(3) The compensation determined under sub-section (2) shall be paid by the concerned licensee within ninety days of such determination.

58. Different standards of performance by licensee:- The Appropriate Commission may specify different standards under sub-section (1) of section 57 for a class or classes of licensees.

59. Information with respect to levels of performance:- (1) Every licensee shall, within the period specified by the Appropriate Commission, furnish to the Commission the following information, namely:-

(a) the level of performance achieved under sub-section (1) of section 57:

(b) the number of cases in which compensation was made under sub-section (2) of section 57 and the aggregate amounts of the compensation.

(2) The Appropriate Commission shall at least once in every year arrange for the publication, in such form and manner, as it considers appropriate, of such of the information furnished to it under sub-section (1).

60. Market domination:- The Appropriate Commission may issue such directions as it considers appropriate to a licensee or a generating company if such licensee or generating company enters into any agreement or abuses its dominant position or enters into a combination which is likely to cause or causes an adverse effect on competition in electricity industry.

PART-VII
TARIFF

61. Tariff regulations:- The Appropriate Commission shall, subject to the provisions of this Act, specify the terms and conditions for the determination of tariff, and in doing so, shall be guided by the following, namely:-

(a) the principles and methodologies specified by the Central Commission for determination of the tariff applicable to generating companies and transmission licensees;

(b) the generation, transmission, distribution and supply of electricity are conducted on commercial principles;

(c) the factors which would encourage competition, efficiency, economical use of the resources, good performance and optimum investments;

(d) safeguarding of consumers' interest and at the same time, recovery of the cost of electricity in a reasonable manner;

(e) the principles rewarding efficiency in performance;

(f) multiyear tariff principles;

(g) that the tariff progressively, reflects the cost of supply of electricity, and also, reduces and eliminates cross- subsidies within the period to be specified by the Appropriate Commission;

(h) the promotion of co-generation and generation of electricity from renewable sources of energy;

(i) the National Electricity Policy and tariff policy:

Provided that the terms and conditions for determination of tariff under the Electricity (Supply) Act, 1948 (54 of 1948), the Electricity Regulatory Commissions Act, 1998 (14 of 1998) and the enactments specified in the Schedule as they stood immediately before the appointed date, shall continue to apply for a period of one year or until the terms and conditions for tariff are specified under this section, whichever is earlier.

62. Determination of tariff:- (1) The Appropriate Commission shall determine the tariff in accordance with the provisions of this Act for-

(a) Supply of electricity by a generating company to a distribution licensee;

Provided that the Appropriate Commission may, in case of shortage of supply of electricity, fix the minimum and maximum ceiling of tariff for sale or purchase of electricity in pursuance of an agreement, entered into between a generating company and a licensee or between licensees, for a period not exceeding one year to ensure reasonable prices of electricity;

(b) transmission of electricity;

(c) wheeling of electricity;

(d) retail sale of electricity;

Provided that in case of distribution of electricity in the same area by two or more distribution licensees, the Appropriate Commission may, for promoting competition among distribution licensees fix only maximum ceiling of tariff for retail sale of electricity.

(2) The Appropriate Commission may require a licensee or a generating company to furnish separate details, as may be specified in respect of generation, transmission and distribution for determination of tariff.

(3) The Appropriate Commission shall not, while determining the tariff under this Act, show undue preference to any consumer of electricity but may differentiate according to the consumer's load factor,

power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required.

(4) No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified.

(5) The Commission may require a licensee or a generating company to comply with such procedure as may be specified for calculating the expected revenues from the tariff and charges which he or it is permitted to recover.

(6) If any licensee or a generating company recovers a price or charge exceeding the tariff determined under this section, the excess amount shall be recoverable by the person who has paid such price or charge along with interest equivalent to the bank rate without prejudice to any other liability incurred by the licensee.

63. Determination of tariff by bidding process:- Notwithstanding anything contained in section 62, the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government.

64. Procedure for tariff order:- (1) An application for determination of tariff under section 62 shall be made by a generating company or licensee in such manner and accompanied by such fee, as may be determined by regulations.

(2) Every applicant shall publish the application, in such abridged form and manner, as may be specified by the Appropriate Commission.

(3) The Appropriate Commission shall, within one hundred and twenty days from receipt of an application under sub-section (1) and after considering all suggestions and objections received from the public,-

(a) issue a tariff order accepting the application with such modifications or such conditions as may be specified in that order;

(b) reject the application for reasons to be recorded in writing if such application is not in accordance with the provisions of this Act and the rules and regulations made thereunder or the provisions of any other law for the time being in force:

Provided that an applicant shall be given a reasonable opportunity of being heard before rejecting his application.

(4) The Appropriate Commission shall, within seven days of making or order, send a copy of the order to the Appropriate Government, the Authority, and the concerned licensees and to the person concerned.

(5) Notwithstanding anything contained in Part X, the tariff for any inter-State supply, transmission or wheeling of electricity, as the case may be, involving the territories of two States may, upon application made to it by the parties intending to undertake such supply, transmission or wheeling, be determined under this section by the State Commission having jurisdiction in respect of the licensee who intends to distribute electricity and make payment therefor.

(6) A tariff order shall, unless amended or revoked, continue to be in force for such period as may be specified in the tariff order.

65. Provision of subsidy by State Government:- If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the State Commission under section 62, the State Government shall, notwithstanding any direction which may be given under section 108, pay, in advance and in such manner as may be specified, the amount to compensate the person affected by the grant of subsidy in the manner the State Commission may direct, as a condition for the licence or any other person concerned to implement the subsidy provided for by the State Government:

Provided that no such direction of the State Government shall be operative if the payment is not made in accordance with the provisions contained in this section and the tariff fixed by the State Commission shall be applicable from the date of issued of orders by the Commission in this regard.

66. Development of market:- The Appropriate Commission shall endeavour to promote the development of a market (including trading) in power in such manner as may be specified and shall be guided by the National Electricity Policy referred to in section 3 in this regard.

PART - VIII
WORKS
Works of licensees

67. Provision as to opening up of streets, railways, etc.:-(1) A licensee may, from time to time but subject always to the terms and conditions of his licence, within his area of supply or transmission or

when permitted by the terms of his licence to lay down or place electric supply lines without the area of supply, without that area carry out works such as-

(a) to open and break up the soil and pavement of any street, railway or tramway;

(b) to open and break up any sewer, drain or tunnel in or under any street, railway or tramway:

(c) to alter the position of any line or works or pipes, other than a main sewer pipe;

(d) to lay down and place electric lines, electrical plant and other works:

(e) to repair, alter or remove the same;

(f) to do all other acts necessary for transmission or supply of electricity.

(2) The Appropriate Government may, by rules made by it in this behalf, specify,-

(a) the cases and circumstances in which the consent in writing of the appropriate Government, local authority, owner or occupier, as the case may be, shall be required for carrying out works:

(b) the authority which may grant permission in the circumstances where the owner or occupier objects to the carrying out of works:

(c) the nature and period of notice to be given by the licensee before carrying out works;

(d) the procedure and manner of consideration of objections and suggestions received in accordance with the notice referred to in clause (c);

(e) the determination and payment of compensation or rent to the persons affected by works under this section;

(f) the repairs and works to be carried out when emergency exists;

(g) the right of the owner or occupier to carry out certain works under this section and the payment of expenses therefor;

(h) the procedure for carrying out other works near sewers, pipes or other electric lines or works ;

(i) the procedure for alteration of the position of pipes, electric lines, electrical plant, telegraph lines, sewer lines, tunnels, drains, etc.;

(j) the procedure for fencing, guarding, lighting and other safety measures relating to works on streets, railways, tramways, sewers, drains or tunnels and immediate reinstatement thereof;

(k) the avoidance of public nuisance, environmental damage and unnecessary damage to the public and private property by such works;

(l) the procedure for undertaking works which are not reparable by the Appropriate Government, licensee or local authority;

(m) the manner of deposit of amount required for restoration of any railways, tramways, waterways, etc;

(n) the manner of restoration of property affected by such works and maintenance thereof;

(o) the procedure for deposit of compensation payable by the licensee and furnishing of security; and

(p) such other matters as are incidental or consequential to the construction and maintenance of works under this section.

(3) A licensee shall, in exercise of any of the powers conferred by or under this section and the rules made thereunder, cause as little damage, detriment and inconvenience as may be, and shall make full compensation for any damage, detriment or inconvenience caused by him or by any one employed by him.

(4) Where any difference or dispute [including amount of compensation under sub-section (3)] arises under this section, the matter shall be determined by the Appropriate Commission.

(5) The Appropriate Commission, while determining any difference or dispute arising under this section in addition to any compensation under sub-section (3), may impose a penalty not exceeding the amount of compensation payable under that sub-section.

Provisions relating to overhead lines

68. Overhead lines:- (1) An overhead line shall, with prior approval of the Appropriate Government, be installed or kept installed above ground in accordance with the provisions of sub-section (2).

(2) The provisions contained in sub-section (1) shall not apply-

(a) in relation to an electric line which has a nominal voltage not exceeding 11 kilovolts and is used or intended to be used for supplying to a single consumer;

(b) in relation to so much of an electric line as is or will be within premises in the occupation or control of the person responsible for its installation; or

(c) in such other cases, as may be prescribed.

(3) The Appropriate Government shall, while granting approval under sub-section (1), impose such conditions (including conditions as to the ownership and operation of the line) as appear to it to be necessary.

(4) The Appropriate Government may vary or revoke the approval at any time after the end of such period as may be stipulated in the approval granted by it.

(5) Where any tree standing or lying near an overhead line or where any structure of other object which has been placed or has fallen near an overhead line subsequent to the placing of such line, interrupts or interferes with, or is likely to interrupt or interfere with, the conveyance or transmission of electricity or the accessibility of any works, an Executive Magistrate or authority specified by the Appropriate Government may, on the application of the licensee, cause the tree, structure or object to be removed or otherwise dealt with as he or it thins fit.

(6) When disposing of an application under sub-section (5), an Executive Magistrate or authority specified under that sub-section shall, in the case of any tree in existence before the placing of the overhead line, award to the person interested in the tree such compensation as he thinks reasonable, and such person may recover the same from the licensee.

Explanation:- For the purposes of this section, the expression "tree" shall be deemed to include any shrub, hedge, jungle growth or other plant.

69. Notice to telegraph authority:- (1) A licensee shall, before laying down or placing, within ten meters of any telegraph line, electric line, electrical plant or other works, not being either service lines or electric lines or electrical plant, for the repair, renewal or amendment of existing works of which the character or position is not to be altered,-

(a) Submit a proposal in case of a new installation to an authority to be designated by the Central Government and such authority shall take a decision on the proposal within thirty days;

(b) give not less than ten days' notice in writing to the telegraph authority in case of repair, renewal or amendment of existing works, specifying-

(i) the course of the works or alterations proposed;

(ii) the manner in which the works are to be utilised;

(iii) the amount and nature of the electricity to be transmitted;

(iv) the extent to, and the manner in which (if at all), earth returns are to be used,

and the licensee shall conform to such reasonable requirements, either general or special, as may be laid down by the telegraph authority within that period for preventing any telegraph line from being injuriously affected by such works or alterations:

Provided that in case of emergency (which shall be stated by the licensee in writing to the telegraph authority) arising from defects in any of the electric lines or electrical plant or other works of the licensee, the licensee shall be required to give only such notice as may be possible after the necessity for the proposed new works or alterations has arisen.

(2) Where the works of the laying or placing of any service line is to be executed, the licensee shall, not less than forty- eight hours before commencing the work, serve upon the telegraph authority a notice in writing of his intention to execute such works.

PART - IX

CENTRAL ELECTRICITY AUTHORITY

Constitution and functions of Authority

70. Constitution etc., of Central Electricity Authority:- (1) There shall be a body to be called the Central Electricity Authority to exercise such functions and perform such duties as are assigned to it under this Act.

(2) The Central Electricity Authority, established under section 3 of the Electricity (Supply) Act, 1948 (54 of 1948) and functioning as such immediately before the appointed date, shall be the Central Electricity Authority for the purposes of this Act and the Ch*airperson, Members, Secretary and other officers and employees thereof shall be deemed to have been appointed under this Act and they shall continue to hold office on the same terms and conditions on which they were appointed under the Electricity (Supply) Act, 1948 (54 of 1948).

(3) The Authority shall consist of not more than fourteen Members (including its Chairperson) of whom not more than eight shall be full- time Members to be appointed by the Central Government.

(4) The Central Government may appoint any person, eligible to be appointed as Member of the Authority, as the Chairperson of the Authority, or, designate one of the full time Members as the Chairperson of the Authority.

(5) The Members of the Authority shall be appointed from amongst persons of ability, integrity and standing who have knowledge of, and adequate experience and capacity in, dealing with problems

relating to engineering, finance, commerce, economics or industrial matters, and at least one Member shall be appointed from each of the following categories, namely:-

(a) engineering with specialisation in design, construction, operation and maintenance of generating stations;

(b) engineering with specialisation in transmission and supply of electricity;

(c) applied research in the field of electricity;

(d) applied economics, accounting, commerce or finance.

(6) The Chairperson and all the Members of the Authority shall hold office during the pleasure of the Central Government.

(7) The Chairperson shall be the Chief Executive of the Authority.

(8) The Headquarters of the Authority shall be at Delhi.

(9) The Authority shall meet at the head office or any other place at such time as the Chairperson may direct, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as it may specify.

(10) The Chairperson, or if he is unable to attend a meeting of the Authority, any other Member nominated by the Chairperson in this behalf and in the absence of such nomination or where there is no Chairperson, any Member chosen by the Members present from among themselves shall preside at the meeting.

(11) All questions which come up before any meeting of the Authority shall be decided by a majority of votes of the Members present and voting, and in the event of an equality of votes, the Chairperson or the person presiding shall have the right to exercise a second or casting vote.

(12) All order and decisions of the Authority shall be authenticated by the Secretary or any other officer of the Authority duly authorised by the Chairperson in this behalf.

(13) No act or proceeding of the Authority shall be questioned or shall be invalidated merely on the ground of existence of any vacancy in, or any defect in, the constitution of, the Authority.

(14) The Chairperson of the Authority and other full-time Members shall receive such salary and allowances as may be determined by the Central Government and other Members shall receive such allowances and fees for attending the meetings of the Authority, as the Central Government may prescribe.

(15) The other terms and conditions of service of the Chairperson and Members of the Authority including, subject to the provisions of sub-section (6), their terms of office shall be such as the Central Government may prescribe.

71. Members not to have certain interest:- No Member of the Authority shall have any share or interest, whether in his own name or otherwise, in any company or other body corporate or an association of person (whether incorporate or not) or a firm engaged in the business of generation, transmission, distribution and trading of electricity of fuel for the generation thereof or in the manufacture of electrical equipment.

72. Officers and staff of Authority:- The Authority may appoint a Secretary and such other officers and employees as it considers necessary for the performance of its functions under this Act and on such terms as to salary, remuneration, fee, allowance, pension, leave and gratuity, as the Authority may in consultation with the Central Government, fix:

Provided that the appointment of the Secretary shall be subject to the approval of the Central Government.

73. Functions and duties of Authority:- The Authority shall perform such functions and duties as the Central Government may prescribe or direct, and in particular to-

(a) advise the Central Government on the matters relating to the national electricity policy, formulate short-term and perspective plans for development of the electricity system ad co-ordinate the activities of the planning agencies for the optimal utilisation of resources to sub-serve the interests of the national economy and to provide reliable and affordable electricity for all consumers;

(b) Specify the technical standards for construction of electrical plants, electric lines and connectivity to the grid;

(c) specify the safety requirements for construction, operation and maintenance of electrical plants and electric lines;

(d) specify the Grid Standards for operation and maintenance of transmission lines;

(e) specify the conditions for installation of meters for transmission and supply of electricity;

(f) promote and assist in the timely completion of schemes and projects for improving and augmenting the electricity system;

(g) promote measures for advancing the skill of persons engaged in the electricity industry;

(h) advise the Central Government on any matter on which its advice is sought or make recommendation to that Government on any matter if, in the opinion of the Authority, the recommendation would help in improving the generation, transmission, trading, distribution and utilisation of electricity;

(i) collect and record the data concerning the generation, transmission, trading, distribution and utilisation of electricity and carry out studies relating to cost, efficiency, competitiveness and such like matters;

(j) make public from time to time the information secured under this Act, and provide for the publication of reports and investigations.

(k) promote research in matters affecting the generation, transmission, distribution and trading of electricity;

(l) carry out, or cause to be carried out, any investigation for the purposes of generating or transmitting or distributing electricity;

(m) advise any State Government, licensees or the generating companies on such matters which shall enable them to operate and maintain the electricity system under their ownership or control in an improved manner and where necessary, in co-ordination with any other Government, licensee or the generating company owning or having the control of another electricity system;

(n) advise the appropriate Government and the Appropriate Commission on all technical matters relating to generation, transmission and distribution of electricity; and

(o) discharge such other functions as may be provided under this Act.

Certain powers and directions

74. Power to require statistics and returns:- It shall be the duty of every licensee, generating company or person generating electricity for its or his own use to furnish to the Authority such statistics, returns or other information relating to generation, transmission, distribution, trading and use of electricity as it may require and at such times and in such form and manner as may be specified by the Authority.

75. (1) Directions by Central Government to Authority:- (1) In the discharge of its functions, the Authority shall be guided by such directions in matters of policy involving public interest as the Central Government may give to it in writing.

(2) If any question arises as to whether any such direction relates to a matter of policy involving public interest, the decision of the Central Government thereon shall be final.

PART - X

REGULATORY COMMISSIONS

Constitution, powers and functions of Central Commission

76. Constitution of Central Commission:- (1) There shall be a commission to be known as the Central Electricity Regulatory Commission to exercise the powers conferred on, and discharge the functions assigned to it under this Act.

(2) The Central Electricity Regulatory Commission, established under section 3 of the Electricity Regulatory Commissions Act, 1998 (14 of 1998) and functioning as such immediately before the appointed date, shall be deemed to be the Central Commission for the purposes of this Act and the Chairperson, Members, Secretary, and other officers and employees thereof shall be deemed to have been appointed under this Act and they shall continue to hold office on the same terms and conditions on which they were appointed under the Electricity Regulatory Commissions Act, 1998:

Provided that the Chairperson and other Members of the Central Commission appointed, before the commencement of this Act, under the Electricity Regulatory Commissions Act, 1998 (14 of 1998), may, on the recommendations of the Selection Committee constituted under sub-section (1) of section 78, be allowed, to opt for the terms and conditions under this Act by the Central Government.

(3) The Central Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(4) The head office of the Central Commission shall be at such place as the Central Government may, by notification, specify.

(5) The Central Commission shall consist of the following Members, namely:-

(a) a Chairperson and three other Members;

(b) the Chairperson of the Authority who shall be the Member, ex officio.

(6) The Chairperson and Members of the Central Commission shall be appointed by the Central Government on the recommendation of the Selection Committee referred to in section 78.

77. Qualifications for appointment of Members of Central Commission:- (1) The Chairperson and the Members of the Central Commission shall be persons having adequate knowledge of , or experience in, or shown capacity in, dealing with, problems relating to engineering, law, economics, commerce, finance or management and shall be appointed in the following manner, namely:-

(a) one person having qualifications and experience in the field of engineering with specialisation in generation, transmission or distribution of electricity;

(b) one person having qualifications and experience in the field of finance;

(c) two persons having qualifications and experience in the field of economics, commerce, law or management;

Provided that not more than one Member shall be appointed under the same category under clause (c).

(2) Notwithstanding anything contained in sub-section (1), the Central Government may appoint any person as the Chairperson form amongst persons who is, or has been, a Judge of the Supreme Court of the Chief Justice of a High Court:

Provided that no appointment under this sub-section shall be made except after consultation with the Chief Justice of India.

(3) The Chairperson or any other Member of the Central Commission shall not hold any other office.

(4) The Chairperson shall be the Chief Executive of the Central Commission.

78. Constitution of Selection Committee to recommend Members:- (1) The Central Government shall, for the purposes of selecting the Members of the Appellate Tribunal and the Chairperson and Members of the Central Commission, constitute a Selection Committee consisting of-

(a)	Member of the Planning Commission in charge of the energy sector	Chairperson
(b)	Secretary in charge of the Ministry of the Central Government dealing with the Department of Legal Affairs	Member
(c)	Chairperson of the Public Enterprises Selection Board	Member
(d)	a person to be nominated by the Central Government in accordance with sub-section (2)	Member
(e)	a person to be nominated by the Central Government in accordance with sub-section (3).	Member
(f)	Secretary in charge of the Ministry of the Central Government dealing with power	Member

(2) For the purposes of clause (d) of sub-section (1), the Central Government shall nominate from amongst persons holding the post of chairperson or managing director, by whatever name called, of any public financial institution specified in section 4A of the Companies Act, 1956 (1 of 1956).

(3) For the purposes of clause (e) of sub-section (1), the Central Government shall, by notification, nominate from amongst persons holding the post of director or the head of the institution, by whatever name called, of any research, technical or management institution for this purpose.

(4) Secretary in charge of the Ministry of the Central Government dealing with Power shall be the Convenor of the Selection Committee.

(5) The Central Government shall, within one month from the date of occurrence of any vacancy by reason of death, resignation or removal of a Member of the Appellate Tribunal or the Chairperson or a Member of the Central Commission and six months before the superannuation or end of tenure of the Member of the Appellate Tribunal or Member of the Central Commission, make a reference to the Selection Committee for filling up of the Vacancy.

(6) The Selection Committee shall finalise the selection of the Chairperson and Members referred to in sub-section (5) within three months from the date on which the reference is made to it.

(7) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(8) Before recommending any person for appointment as Member of the Appellate Tribunal or the Chairperson or other Member of the Central Commission, the Selection Committee shall satisfy itself that such person does not have any financial or other interest, which is likely to affect prejudicially his functions as the Chairperson or Member.

(9) No appointment of the Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee:

Provided that nothing contained in this section shall apply to the appointment of a person as the Chairperson of the Central Commission where such person is, or has been, a judge of the Supreme Court or the Chief Justice of a High Court.

79. Functions of Central Commission:- (1) The Central Commission shall discharge the following functions, namely:-

(a) to regulate the tariff of generating companies owned or controlled by the Central Government;

(b) to regulate the tariff of generating companies other than those owned or controlled by the Central Government specified in clause (a), if such generating companies enter into or otherwise have a composite scheme for generation and sale of electricity in more than one State:

(c) to regulate the inter -state Transmission of electricity;

(d) to determine tariff for inter-state transmission of electricity;

(e) to issue licences to persons to function as transmission licensee and electricity trader with respect to their inter - State operation;

(f) to adjudicate upon dispute involving generating companies or transmission licensee in regard to matters connected with clauses (a) to (d) above and to refer any dispute for arbitration;

(g) to levy fees for the purposes of this Act;

(h) to specify Grid Code having regard to Grid Standards;

(i) to specify and enforce the standards with respect to quality, continuity and reliability of service by licensees;

(j) to fix the trading margin in the inter-state trading of electricity, if considered, necessary;

(k) to discharge such other functions as may be assigned under this Act.

(2) The Central Commission shall advise the Central Government on all or any of the following matters, namely:-

(i) formulation of National Electricity Policy and tariff policy;

(ii) promotion of competition, efficiency and economy in activities of the electricity industry:

(iii) promotion of investment in electricity industry;

(iv) any other matter referred to the Central Commission by that Government.

(3) The Central Commission shall ensure transparency while exercising its powers and discharging its functions.

(4) In discharge of its functions, the Central Commission shall be guided by the National Electricity Policy, National Electricity plan and tariff policy published under section 3.

80. Central Advisory Committee:- (1) The Central Commission may, by notification, establish with effect from such date as it may specify in such notification, a Committee to be known as the Central Advisory Committee.

(2) The Central Advisory Committee shall consist of not more than thirty -one members to represent the interests of commerce, industry, transport, agriculture, labour, consumers, non-governmental organisations and academic and research bodies in the electricity sector.

(3) The Chairperson of the Central Commission shall be the ex officio Chairperson of the Central Advisory Committee and the Members of that Commission and Secretary to the Government of India in charge of the Ministry or Department of the Central Government dealing with Consumer Affairs and Public Distribution system shall be the ex officio Members of the Committee.

81. Objects of Central Advisory Committee:- The objects of the Central Advisory Committee shall be to advise the Central Commission on-

(i) major questions of policy;

(ii) matters relating to quality, continuity and extent of service provided by the licensees;

(iii) compliance by the licensees with the conditions and requirements of their licence;

(iv) protection of consumer interest;

(v) electricity supply and overall standards of performance by utilities.

Constitution, powers and functions of State Commissions

82. Constitution of State Commission:- (1) Every State Government shall, within six months from the appointed date, by notification, constitute for the purposes of this Act, a Commission for the State to be known as the (name of the State) Electricity Regulatory Commission:

Provided that the State Electricity Regulatory Commission, established by a State Government under section 17 of the Electricity Regulatory Commission Act, 1998 (14 of 1998) and the enactments specified in the Schedule, and functioning as such immediately before the appointed date, shall be the State Commission for the purposes of this Act and the Chairperson, Members, Secretary and officers and other employees thereof shall continue to hold office, on the same terms and conditions on which they were appointed under those Acts;

Provided further that the Chairperson and other Members of the State Commission appointed, before the Commencement of this Act, under the Electricity Regulatory Commissions Act, 1998 (14 of 1998) or under the enactments specified in the Schedule, may, on the recommendations of the Selection Committee constituted under sub- section (1) of section 85, be allowed to opt for the terms and conditions under this Act by the concerned State Government.

(2) The State Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) The head office of the State Commission shall be at such place as the State Government may, by notification, specify.

(4) The State Commission shall consist of not more than three Members, including the Chairperson.

(5) The Chairperson and Members of the State Commission shall be appointed by the State Government on the recommendation of a Selection Committee referred to in section 85.

83. Joint Commission:- (1) Notwithstanding anything to the contrary contained in section 82, a Joint Commission may be constituted by an agreement to be entered into -

(a) by two or more Governments of States; or

(b) by the Central Government, in respect of one or more Union territories, and one or more Governments of States,

and shall be in force for such period and shall be subject to renewal for each further period, if any, as may be stipulated in the agreement:

Provided that the Joint Commission, constituted under section 21 A of the Electricity Regulatory Commissions Act, 1998 (14 of 1998) and functioning as such immediately before the appointed day, shall be the Joint Commission for the purposes of this Act and the Chairperson, Members, Secretary and other officers and employees thereof shall be deemed to have been appointed as such under this Act and they shall continue to hold office, on the same terms and conditions on which they were appointed under the Electricity Regulatory Commissions Act, 1998.

(2) The Joint Commission shall consist of one Member from each of the participating States and Union territories and the Chairperson shall be appointed from amongst the Members by consensus, failing which by rotation.

(3) An agreement under sub-section (1) shall contain provisions as to the name of the Joint Commission, the manner in which the participating State may be associated in the selection of the Chairperson and Members of the Joint Commission, manner of appointment of Members and appointment of Chairperson by rotation or consensus, places at which the Commission shall sit, apportionment among the participating States of the expenditure in connection with the Joint Commission, manner in which the differences of opinion between the Joint Commission and the State Government concerned would be resolved and may also contain such other supplemental, incidental and consequential provisions not in consistent with this Act as may be deemed necessary or expedient for giving effect to the agreement.

(4) The Joint Commission shall determine tariff in respect of the participating States or Union territories separately and independently.

(5) Notwithstanding anything contained in this section, the Central Government may, if so authorised by all the participating States, constitute a Joint Commission and may exercise the powers in respect of all or any of the matters specified under sub-section (3) and when so specifically authorised by the participating States.

84. Qualifications for appointment of Chairperson and Members of State Commission:- (1) The Chairperson and the Members of the State Commission shall be persons of ability, integrity and standing who have adequate knowledge of, and have shown capacity in, dealing with problems relating to engineering, finance, commerce, economics, law or management.

(2) Notwithstanding anything contained in sub-section (1), the State Government may appoint any person as the Chairperson from amongst persons who is, or has been, a Judge of a High Court:

Provided that no appointment under this sub-section shall be made except after consultation with the Chief Justice of the High Court.

(3) The Chairperson or any other Member of the State Commission shall not hold any other office.

(4) The Chairperson shall be the Chief Executive of the State Commission.

85. Constitution of Selection Committee to select Members of State Commission:- (1) The State Government shall, for the purposes of selecting the Members of the State Commission, constitute a Selection Committee Consisting of-

(a)	a person who has been a Judge of the High Court	Chairperson
(b)	the Chief Secretary of the concerned State	Member
(c)	the Chairperson of the Authority or the Chairperson of the Central Commission	Member

Provided that nothing contained in this section shall apply to the appointment of a person as the Chairperson who is or has been a Judge of the High Court.

(2) The State Government shall, within one month from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member and six months before the superannuation or end of tenure of the Chairperson or Member, make a reference to the Selection Committee for filling up of the vacancy.

(3) The Selection Committee shall finalise the selection of the Chairperson and Members within three months from the date on which the reference is made to it.

(4) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(5) Before recommending any person for appointment as the Chairperson or other Member of the State Commission, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as such Chairperson or Member, as the case may be.

(6) No appointment of Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee.

86. Functions of State Commission:- (1) The State Commission shall discharge the following functions, namely:-

(a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail as the case may be, within the State:

Provided that where open access has been permitted to a category of consumers under section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;

(b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;

(c) facilitate intra-State transmission and wheeling of electricity;

(d) issue licences of persons seeking to act as transmission licensees, distribution licensees and electricity traders with respect to their operations within the State;

(e) promote cogeneration and generation of electricity from renewable sources of energy by providing suitable measures of connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;

(f) adjudicate upon the disputes between the licensees and generating companies and to refer any dispute for arbitration;

(g) levy fee for the purposes of this Act;

(h) specify State Grid Code consistent with the Grid Code specified under clause (h) of sub-section (1) of section 79;

(i) specify or enforce standards with respect to quality, continuity and reliability of service by licensees;

(j) fix the trading margin in the intra- State trading of electricity, if considered, necessary;

(k) discharge such other functions as may be assigned to it under this Act.

(2) The State Commission shall advise the State Government on all or any of the following matters, namely:-

(i) promotion of competition, efficiency and economy in activities of the electricity industry;

(ii) promotion of investment in electricity industry;

(iii) reorganisation and restructuring of electricity industry in the State;

(iv) matters concerning generation, transmission, distribution and trading of electricity or any other matter referred to the State Commission by that Government.

(3) The State Commission shall ensure transparency while exercising its powers and discharging its functions.

(4) In discharge of its functions, the State Commission shall be guided by the National Electricity Policy, National Electricity Plan and tariff policy published under section 3.

87. State Advisory Committee:- (1) The State Commission may, by notification, establish with effect from such date as it may specify in such notification, a Committee to be known as the State Advisory Committee.

(2) The State Advisory Committee shall consist of not more than twenty-one members to represent the interests of commerce, industry, transport, agriculture, labour, consumers, non-governmental organisations and academic and research bodies in the electricity sector.

(3) The Chairperson of the State Commission shall be the ex-officio Chairperson of the State Advisory Committee and the Members of the State Commission and the secretary to State Government in

charge of the Ministry or Department dealing with Consumer Affairs and Public Distribution System shall be the ex-officio Members of the Committee.

88. Objects of State Advisory Committee:- The objects of the State Advisory Committee shall be to advise the Commission on-

(i) major questions of policy;
(ii) mattes relating to quality, continuity and extent of service provided by the licensees;
(iii) compliance by licensees with the conditions and requirements of their licence;
(iv) protection of consumer interest; and
(v) electricity supply and overall standards of performance by utilities.

Appropriate Commission - Other provisions

89. Term of office and conditions of service of Members:- (1) The Chairperson or other Member shall hold office for a term of five years from the date he enters upon his office:

Provided that the Chairperson or other Member in the Central Commission or the State Commission shall not be eligible for re-appointment in the same capacity as the Chairperson or a Member in that Commission in which he had earlier held office as such:

Provided further that no Chairperson or Member shall hold office as such after he has attained the age of sixty-five years.

(2) The salary, allowances and other terms and conditions of service of the Chairperson and Members shall be such as may be prescribed by the Appropriate Government:

Provided that the salary, allowances and other terms and conditions of service of the Members, shall not be varied to their disadvantage after appointment.

(3) Every member shall, before entering upon his office, make and subscribe to an oath of office and secrecy in such form and in such manner and before such authority as may be prescribed.

(4) Notwithstanding anything contained in sub-section (1), a Member may;

(a) relinquish his office by giving in writing to the Appropriate Government a notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of section 90.

(5) Any member ceasing to hold office as such shall-

(a) not accept any commercial employment for a period of two years from the date he ceases to hold such office; and

(b) not represent any person before the Central Commission or any State Commission in any manner.

Explanation,- For the purposes of this sub-section, "Commercial employment" means employment in any capacity in any organisation which has been a party to the proceedings before the Appropriate Commission or employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in electricity industry and includes a director of a company or partner of a firm or setting up practice either independently or as partner of a firm or as an adviser or a consultant.

90. Removal of Member:- (1) No Member shall be removed from office except in accordance with the provisions of this section.

(2) The Central Government, in the case of a Member of the Central Commission, and the State Government, in the case of a Member of the State Commission, may by order remove from office any Member, if he-

(a) has been adjudge an insolvent;

(b) has been convicted of an offence which, in the opinion of the Appropriate Government, involves moral turpitude;

(c) has become physically or mentally incapable of acting as a Member;

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member;

(e) has so abused his position as to render his continuance in office prejudicial to the public interest; or

(f) has been guilty of proved misbehaviour;

Provided that no Member shall be removed from his office on any ground specified in clauses (d), (e) and (f) unless the Chairperson of the Appellate Tribunal on a reference being made to him in this behalf by the Central Government or the State Government, as the case may be, has, on an inquiry, held by him in accordance with such procedure as may be prescribed by the Central Government, reported that the Member ought on such ground or grounds to be removed.

(3) The Central Government or the State Government, as the case may be, may, in consultation with the Chairperson of the Appellate Tribunal suspend any Member of the Appropriate Commission in

respect of whom a reference has been made to the Chairperson of the Appellate Tribunal, under sub-section (2) until the Central Government or the State Government, as the case may be, has passed orders on receipt of the report of the Chairperson of the Appellate Tribunal, on such reference:

Provided that nothing contained in this section shall apply to the Chairperson of the Appropriate Commission who, at the time of his appointment as such is a sitting Judge of the Supreme Court or the Chief Justice of a High Court or a Judge of a High Court.

Proceedings and powers of Appropriate Commission

91. Secretary, officers and other employees of Appropriate Commission:- (1) The Appropriate Commission may appoint a Secretary to exercise such powers and perform such duties as may be specified.

(2) The Appropriate Commission may, with the approval of the Appropriate Government, specify the numbers, nature and categories of other officers and employees.

(3) The salaries and allowances payable to, and other terms and conditions of service of, the Secretary, officers and other employees shall be such as may be specified with the approval of the Appropriate Government.

(4) The Appropriate Commission may appoint consultants required to assist that Commission in the discharge of its functions on the terms and conditions as may be specified.

92. Proceedings of Appropriate Commission:- (1) The Appropriate Commission shall meet at the head office or any other place at such time as the Chairperson may direct, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as it may specify.

(2) The Chairperson, or if he is unable to attend a meeting of the Appropriate Commission, any other Member nominated by the Chairperson in this behalf and, in the absence of such nomination or where there is no Chairperson, any Member chosen by the Members present from amongst themselves, shall preside at the meeting.

(3) All questions which come up before any meeting of the Appropriate Commission shall be decided by a majority of votes of the Members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the person presiding shall have a second or casting vote.

(4) Save as otherwise provided in sub-section (3), every member shall have one vote.

(5) All orders and decisions of the Appropriate Commission shall be authenticated by its Secretary or any other officer of the Commission duly authorised by the Chairperson in this behalf.

93. Vacancies, etc., not to invalidate proceedings:- No act or proceeding of the Appropriate Commission shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Appropriate Commission.

94. Powers of Appropriate Commission:- (1) The Appropriate Commission shall, for the purposes of any inquiry or proceedings under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) in respect of the following matters, namely:-

(a) Summoning and enforcing the attendance of any person and examining him on oath;
(b) discovery and production of any document or other material object producible as evidence;
(c) receiving evidence on affidavits;
(d) requisitioning of any public record;
(e) issuing commission for the examination of witnesses;
(f) reviewing its decisions, directions and orders;
(g) any other matter which may be prescribed.

(2) The Appropriate Commission shall have the powers to pass such interim order in any proceeding, hearing or matter before the Appropriate Commission, as the Commission may consider appropriate.

(3) The Appropriate may authorise any person, as it deems fit, to represent the interest of the consumers in the proceedings before it.

95. Proceedings before Commission:- All proceedings before the Appropriate Commission shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 (45 of 1860) of the Indian Penal Code and the Appropriate Commission shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

96. Powers of entry and seizure:- The Appropriate Commission or any officer, not below the rank of a Gazetted Officer specially authorised in this behalf by the Commission, may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject

to the provisions of section 100 of the Code of Criminal Procedure, 1973, (2 of 1974) in so far as it may be applicable.

97. Delegation:- The Appropriate Commission may, by general or special order in writing, delegate to any Member, Secretary, officer of the Appropriate Commission or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers to adjudicate disputes under section 79 and section 86 and the powers to make regulations under section 178 or section 181) as it may deem necessary.

Grants, Fund, Accounts, Audit and Report

98. Grants and loans by Central Government:- The Central Government may, after due appropriation made by Parliament in this behalf, make to the Central Commission grants and loans of such sums of money as that Government may consider necessary.

99. Establishment of Fund by Central Government:- (1) There shall be constituted a Fund to be called the Central Electricity Regulatory Commission Fund and there shall be credited thereto-

(a) any grants and loans made to the Central Commission by the Central Government under section 98;

(b) all fees received by the Central Commission under this Act;

(c) all sums received by the Central Commission from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting-

(a) The salary, allowances and other remuneration of Chairperson, Members, Secretary, officers and other employees of the Central Commission;

(b) The expenses of the Central Commission in discharge of its functions under section 79;

(c) The expenses on objects and for purposes authorised by this Act.

(3) The Central Government may, in consultation with the Comptroller and Auditor General of India, prescribe the manner of applying the Fund of meeting the expenses Specified in clause (b) or clause (c) of sub-section (2);

100. Accounts and audit of Central Commission:- (1) The Central Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor -General of India.

(2) The accounts of the Central Commission shall be audited by the Comptroller and Auditor - General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Central Commission to the Comptroller and Auditor- General of India.

(3) The Comptroller and Auditor- General of India and any person appointed by him in connection with the audit of the accounts of the Central Commission under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor - General of India has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Central Commission.

(4) The accounts of the Central Commission, as certified by the comptroller and Auditor- General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and that Government shall cause the same to be laid, as soon as may be after it is received, before each House of Parliament.

101. Annual report of Central Commission:- (1) The Central Commission shall prepare once every year, in such form and at such time as may be prescribed, an annual report giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.

(2) A Copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, before each House of Parliament.

102. Grants and loans by State Government:- The State Government may, after due appropriation made by Legislature of a State in this behalf, make to the State Commission grants and loans of such sums of money at that Government may consider necessary.

103. Establishment of Fund by State Government:- (1) There shall be constituted a Fund to be called the State Electricity Regulatory Commission Fund and there shall be credited thereto-

(a) any grants and loans made to the State Commission by the State Government under section 102;

(b) all fees received by the State Commission under this Act;

(c) all sums received by the State Commission from such other sources as may be decided upon by the State Government.

(2) The Fund shall be applied for meeting-

(a) the salary, allowances and other remuneration of Chairperson, Members, Secretary, officers and other employees of the State Commission;

(b) the expenses of the State Commission in discharge of its functions under section 86;

(c) the expenses on objects and for purposes authorised by this Act.

(3) The State Government may, in consultation with the Comptroller and Auditor- General of India, prescribe the manner of applying the Fund for meeting the expenses specified in clause (b) or clause (c) of sub-section (2).

104. Accounts and audit of State Commission:- (1) The State Commission shall maintain proper accounts and other relevant records and prepare annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Comptroller and Auditor -General of India.

(2) The accounts of the State Commission shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the State Commission to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the State Commission under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor- General of India generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the State Commission.

(4) The accounts of the State Commission, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the State Government and that Government shall cause the same to be laid, as soon as may be after it is received, before the State Legislature.

105. Annual report of State Commission:- (1) The State Commission shall prepare once every year in such form at such time as may be prescribed, an annual report giving a summary to its activities during the previous year and copies of the report shall be forwarded to the State Government.

(2) A copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, before the State Legislature.

106. Budget of Appropriate Commission:- The Appropriate Commission shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of that Commission and forward the same to the Appropriate Government.

107 Directions by Central Government:- (1) In the discharge of its functions, the Central Commission shall be guided by such directions in matters of policy involving public interest as the Central Government may give to it in writing.

(2) If any question arises as to whether any such direction relates to a matter of policy involving public interest, the decision of the Central Government thereon shall be final.

108. Directions by State Government:- (1) In the discharge of its functions, the State Commission shall be guided by such directions in matters of policy involving public interest as the State Government may give to it in writing.

(2) If any question arises as to whether any such direction relates to a matter of policy involving public interest, the decision of the State Government thereon shall be final.

109. Directions to Joint Commission:- Notwithstanding anything contained in this Act, where any Joint Commission is established under section 83-

(a) the Government of the State, for which the Joint Commission is established, shall be competent to give any direction under this Act only in cases where such direction relates to matter within the exclusive territorial jurisdiction of the State;

(b) the Central Government alone shall be competent to give any direction under this Act where such direction relates to a matter within the territorial jurisdiction of two or more States or pertaining to a Union territory if he participating Governments fail to reach an agreement or the participating States or majority of them request the Central Government to issue such directions.

PART- XI

APPELLATE TRIBUNAL FOR ELECTRICITY

110. Establishment of Appellate Tribunal:- The Central Government shall, by notification, establish and Appellate Tribunal to be known as the Appellate Tribunal for Electricity to hear appeals against the orders of the adjudicating officer or the Appropriate Commission under this Act.

111. Appeal to Appellate Tribunal:- (1) Any person aggrieved by an order made by an adjudicating officer under this Act (except under section 127) or an order made by the Appropriate Commission under this Act may prefer an appeal to the Appellate Tribunal for Electricity;

Provided that any person appealing against the order of the adjudicating officer levying any penalty shall, while filing the appeal, deposit the amount of such penalty:

Provided further that where in any particular case, the Appellate Tribunal is of the opinion that the deposit of such penalty would cause undue hardship to such person, it may dispense with such deposit subject to such conditions as it may deem fit to impose so as to safeguard the realisation of penalty.

(2) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the adjudicating officer or the Appropriate Commission is received by the aggrieved person and it shall be in such form, verified in such manner and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(4) The Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned adjudicating officer or the Appropriate Commission, as the case may be.

(5) The appeal filed before the Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within one hundred and eighty days from the date of receipt of the appeal.

Provided that where any appeal could not be disposed of within the said period of one hundred and eighty days, the appellate Tribunal shall record its reasons in writing for not deposing of the appeal within the said period.

(6) The Appellate Tribunal may, for the purpose of examining the legality, propriety or correctness of any order made by the adjudicating officer or the Appropriate Commission under this Act, as the case may be, in relation to any proceeding, on its own motion or otherwise, call for the records of such proceedings and make such order in the case as it thinks fit.

112. Composition of Appellate Tribunal:- (1) The Appellate Tribunal shall consist of a Chairperson and three other Members.

(2) Subject to the provisions of this Act,-

(a) the jurisdiction of the Appellate Tribunal may be exercised by Benches thereof;

(b) a Bench may be constituted by the Chairperson of the Appellate Tribunal with two or more Members of the Appellate Tribunal as the Chairperson of the Appellate Tribunal may deem fit;

Provided that every Bench constituted under this clause shall include at least one Judicial Member and one Technical Member;

(c) the Benches of the Appellate Tribunal shall ordinarily sit at Delhi and such other places as the Central Government may, in consultation with the Chairperson of the Appellate Tribunal, notify;

(d) the Central Government shall notify the areas in relation to which each Bench of the Appellate Tribunal may exercise jurisdiction.

(3) Notwithstanding anything contained in sub-section (2), the Chairperson of the Appellate Tribunal may transfer a Member of the Appellate Tribunal from one Bench to another Bench.

Explanation:- For the purposes of this Chapter,-

(i)"Judicial Member" means a Member of the Appellate Tribunal appointed as such under sub-clause (i) of clause (b) of sub-section (1) of section 113 and includes the Chairperson of the Appellate Tribunal;

(ii) "Technical Member" means a Member of the Appellate Tribunal appointed as such under sub-clause (ii) or sub-clause (iii) of clause (b) of sub-section (1) of section 113.

113. Qualifications for appointment of Chairperson and Member of Appellate Tribunal:- (1) A person shall not be qualified for appointment as the Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal unless he-

(a) in the case of the Chairperson of the Appellate tribunal, is, or has been, a Judge of the Supreme Court or the Chief Justice of a High Court; and

(b) in the case of a Member of the Appellate Tribunal,-

(i) is, or has been, or is qualified to be, a Judge of a High Court; or

(ii) is, or has been, a Secretary for at least one year in the Ministry of Department of the Central Government dealing with economic affairs or matters or infrastructure; or

(iii) is, or has been, a person of ability and standing, having adequate knowledge or experience in dealing with the matters relating to electricity generation, transmission and distribution and regulation or economics, commerce, law or management.

(2) The Chairperson of the Appellate Tribunal shall be appointed by the Central Government after consultation with the Chief Justice of India.

(3) The Members of the Appellate Tribunal shall be appointed by the Central Government on the recommendation of the Selection Committee referred to in section 78.

(4) Before appointing any person for appointment as Chairperson or other Member of the Appellate Tribunal, the Central Government shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as such Chairperson or Member.

114. Term of office:- The Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal shall hold office as such for a term of three years from the date on which he enters upon his office:

Provided that such Chairperson or other Member shall be eligible for reappointment for a second term of three years:

Provided further that no Chairperson of the Appellate Tribunal or Member of the Appellate Tribunal shall hold office as such after he has attained,-

(a) in the case of the Chairperson of the Appellate Tribunal, the age of seventy years.

(b) in the case of a Member of the Appellate Tribunal, the age of sixty-five years.

115. Terms and Conditions of service:- The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson of the Appellate Tribunal and Members of the Appellate Tribunal shall be such as may be prescribed by the Central Government:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal shall be varied to his disadvantage after appointment.

116. Vacancies:- If, for reason other than temporary absence, any vacancy occurs in the office of the Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal, the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Appellate Tribunal from the stage at which the vacancy is filled.

117. Resignation and removal:- (1) The Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that the Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three moths from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of term of office, whichever is the earliest.

(2) The Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal shall not be removed from his office except by an order by the Central Government on the ground or proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court, as the Central Government may appoint for this purpose in which the Chairperson or a Member of the Appellate Tribunal concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of such charges.

118. Member to act as Chairperson in certain circumstances:- (1) In the event of the occurrence of any vacancy in the office of the Chairperson of the Appellate Tribunal by reason of his death, resignation or otherwise, the senior-most Member of the Appellate Tribunal shall act as the Chairperson of the Appellate Tribunal until the date on which a new Chairperson, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(2) When the Chairperson of the Appellate Tribunal is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Member of the Appellate Tribunal shall discharge the functions of the Chairperson of the Appellate Tribunal until the date on which the Chairperson of the Appellate Tribunal resumes his duties.

119. Officers and other employees of Appellate Tribunal:- (1) The Central Government shall provide the Appellate Tribunal with such officers and other employees as it may deem fit.

(2) The Officers and other employees of the Appellate Tribunal shall discharge their functions under the general superintendence of the Chairperson of the Appellate Tribunal.

(3) The salaries and allowances and other terms and conditions of service of the officers and other employees of the Appellate Tribunal shall be such as may be prescribed by the Central Government.

120. Procedure and powers and Appellate Tribunal:- (1) The Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, the Appellate Tribunal shall have powers to regulate its own procedure.

(2) The Appellate Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person and examining him on oath;
(b) requiring the discovery and production of documents;
(c) receiving evidence on affidavits;
(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872) requisitioning any public record or documents or copy of such record or document from any office;
(e) issuing commissions for the examination of witnesses or documents;
(f) reviewing its decisions;
(g) dismissing a representation of default or dealing it ex parte;
(h) setting aside any order of dismissal or any representation for default or any order passed by it ex parte;
(i) any other matter which may be prescribed by the Central Government.

(3) An order made by the Appellate Tribunal under this Act shall be executable by the Appellate Tribunal as a decree of civil court and, for this purpose, the Appellate Tribunal shall have all the powers of a civil court.

(4) Notwithstanding anything contained in sub-section (3), the Appellate Tribunal may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

(5) All proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860) and the Appellate Tribunal shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1874).

121. Power of Chairperson of Appellate Tribunal:- The Chairperson of the Appellate Tribunal shall exercise general power of superintendence and control over the Appropriate Commission.

122. Distribution of business amongst Benches and transfer of cases from one Bench to another Bench:- (1) Where Benches are constituted, the Chairperson of the Appellate Tribunal may, from time to time, by notification, make provisions at to the distribution of the business of the Appellate Tribunal amongst the Benches and also provide for the matters which may be dealt with by each Bench.

(2) On the application of any of the parties and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairperson of the Appellate Tribunal may transfer any case pending before one Bench, for disposal, to any other Bench.

123. Decision to be by majority:- If the Members of the Appellate Tribunal of Bench consisting of two Members differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairperson of the Appellate Tribunal who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members of the Appellate Tribunal and such point or points shall be decided according to the opinion of the majority of the Members of the Appellate Tribunal who have heard the case, including those who first heard it.

124. Right of appellant to take assistance of legal practitioner and of Appropriate Commission to appoint presenting officers:- (1) A person preferring an appeal to the Appellate Tribunal under this Act may either appear in person or take the assistance of a legal practitioner of his choice to present his case before the Appellate Tribunal, as the case may be.

(2) The Appropriate Commission may authorise one or more legal practitioners or any of its officers to act as presenting officers and every person so authorised may present the case with respect to any appeal before the Appellate Tribunal, as the case may be.

125. Appeal to Supreme Court:- Any person aggrieved by any decision or order of the Appellate Tribunal, may, file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Appellate Tribunal, to him on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908 (5 of 1908);

PART - XII
INVESTIGATION AND ENFORCEMENT

126. Assessment:- (1) If on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records

maintained by any person, the assessing officer comes to the conclusion that such person is indulging in unauthorised use of electricity, he shall provisionally assess to the best of his judgement the electricity charges payable by such person or by any other person benefited by such use.

(2) The order of provisional assessment shall be served upon the person in occupation or possession or in charge of the place or premises in such manner as may be prescribed.

(3) The person, on whom a notice has been served under sub-section (2), shall be entitled to file objections, if any, against the provisional assessment before the assessing officer, who may, after affording a reasonable opportunity of hearing to such person, pass a final order of assessment of the electricity charges payable by such person.

(4) Any person served with the order of provisional assessment may, accept such assessment and deposit the assessed amount with the licensee within seven days of service of such provisional assessment order upon him;

Provided that in case the person deposits the assessed amount, he shall not be subjected to any further liability or any action by any authority whatsoever.

(5) If the assessing officer reaches to the conclusion that unauthorised use of electricity has taken place, it shall be presumed that such unauthorised use of electricity was continuing for a period of three months immediately preceding the date of inspection in case of domestic and agricultural services and for a period of six months immediately preceding the date of inspection for all other categories of services, unless the onus is rebutted by the person, occupier or possessor of such premises or place.

(6) The Assessment under this section shall be made at a rate equal to one-and -half times the tariff applicable for the relevant category of services specified in sub-section (5).

Explanation:- For the purposes of this section ,-

(a) "assessing officer" means an officer of a State Government or Board or licensee, as the case may be, designated as such by the State Government;

(b) "unauthorised use of electricity" means the usage of electricity-

(i) by any artificial means ; or

(ii) by a means not authorised by the concerned person or authority or licensee; or

(iii) through a tampered meter; or

(iv) for the purpose other than for which the usage of electricity was authorised.

127. Appeal to appellate authority:- (1) Any person aggrieved by the final order made under section 126 may, within thirty days of the said order, prefer an appeal in such form, verified in such manner and be accompanied by such fee as may be specified by the State Commission, to an appellate authority as may be prescribed.

(2) No appeal against an order of assessment under sub-section (1) shall be entertained unless an amount equal to one-third of the assessed amount is deposited in cash or by way of bank draft with the licensee and documentary evidence of such deposit has been enclosed along with the appeal.

(3) The appellate authority referred to in sub-section (1) shall dispose of the appeal after hearing the parties and pass appropriate order and send copy of the order to the assessing officer and the appellant.

(4) The order of the appellate authority referred to the sub-section (1) passed under sub-section (3) shall be final.

(5) No appeal shall lie to the appellate authority referred to in sub-section (1) against the final order made with the consent of the parties.

(6) When a person defaults in making payment of assessed amount, he, in addition to the assessed amount shall be liable to pay, on the expiry of thirty days from the date of order of assessment, an amount of interest at the rate of sixteen percent, per annum compounded every six months.

128. Investigation of certain matters:- (1) The Appropriate Commission may, on being satisfied that a licensee has failed to comply with any of the conditions of licence or a generating company or a licensee has failed to comply with any of the provisions of this Act or the rules or regulations made thereunder, at any time, by order in writing, direct any person (hereafter in this section referred to as ("investigating Authority") specified in the order to investigate the affairs of any generating company or licensee and to report to that Commission on any investigation made by such Investigating Authority.

Provided that the Investigating Authority may, wherever necessary, employ any auditor or any other person for the purpose of assisting him in any investigation under this section.

(2) Notwithstanding anything to the contrary contained in section 235 of the Companies Act, 1956 (1 of 1956), the Investigating Authority may, at any time, and shall, on being directed so to do by the Appropriate Commission, cause an inspection to be made, by one or more of its officers, of any licensee or generating company and his books of account: and the Investigating Authority shall supply to the licensee or generating company, as the case may be, a copy of his report on such inspection.

(3) It shall be the duty of every manager, managing director of other officer of the licensee or generating company, as the case may be, to produce before the Investigating Authority directed to make the investigation under sub-section (1), or inspection under sub-section (2), all such books of account, registers and other documents in his custody or power and to furnish him with any statement and information relating to the affairs of the licensee or generating company, as the case may be, as the said Investigating Authority may require of him within such time as the said Investigating Authority may specify.

(4) Any Investigating Authority, directed to make an investigation under sub-section (1), or inspection under sub-section (2), may examine on oath any manager, managing director of other officer of the licensee or generating company, as the case may be, in relation to his business and may administer oaths accordingly.

(5) The Investigating Authority, shall, if it has been directed by the Appropriate Commission to cause an inspection to be made, and may, in any other case, report to the Appropriate Commission on any inspection made under this section.

(6) On receipt of any report under sub-section (1) or sub-section (5), the Appropriate Commission may, after giving such opportunity to the licensee or generating company, as the case may be, to make a representation in connection with the report as in the opinion of the Appropriate Commission seems reasonable, by order in writing-

(a) require the licensee or the generating company to take such action in respect of any matter arising out of the report as the Appropriate Commission may think fit; or

(b) cancel the licence; or

(c) direct the generating company to cease to carry on the business of generation of electricity.

(7) The Appropriate Commission may, after giving reasonable notice to the licensee or the generating company, as the case may be, publish the report submitted by the Investigating Authority under sub-section (5) or such portion thereof as may appear to it to be necessary.

(8) The Appropriate Commission may specify the minimum information to be maintained by the licensee or the generating company in their books, the manner in which such information shall be maintained, the checks and other verifications to be adopted by licensee or the generating company in that connection and all other matters incidental thereto as are, in its opinion, necessary to enable the Investigating Authority to discharge satisfactorily its functions under this section.

Explanation:- For the purposes of this section, the expression "licensee or the generating company" shall include in the case of a licensee incorporated in India-

(a) all its subsidiaries formed for the purpose of carrying on the business of generation or transmission or distribution or trading of electricity exclusively outside India; and

(b) all its branches whether situated in India or outside India.

(9) All expenses of, and incidental to, any investigation made under this section shall be defrayed by the licensee or the generating company, as the case may be, and shall have priority over the debts due from the licensee or the generating company and shall be recoverable as an arrear of land revenue.

129. Orders for securing compliance:- (1) Where the Appropriate Commission, on the basis of material in its possession, is satisfied that a licensee is contravening, or is likely to contravene, any of the conditions mentioned in his licence or conditions for grant of exemption or the licensee or the generating company has contravened or is likely to contravene any of the provisions of this Act, it shall, by an order, give such directions as may be necessary for the purpose of securing compliance with that condition or provision.

(2) While giving direction under sub-section (1), the Appropriate Commission shall have due regard to the extent to which any person is likely to sustain loss or damage due to such contravention.

130 Procedure for issuing directions by Appropriate Commission:- The Appropriate Commission, before issuing any direction under section 129, shall-

(a) serve notice in the manner as may be specified to the concerned licensee or the generating company;

(b) publish the notice in the manner as may be specified for the purpose of bringing the matters to the attention of persons, likely to be affected, or affected;

(c) consider suggestions and objections from the concerned licensee or generating company and the persons, likely to be affected, or affected.

PART XIII
REORGANISATION OF BOARD

131. Vesting of property of Board in State Government:- (1) With effect from the date on which a transfer scheme, prepared by the State Government to give effect to the objects and purposes of this Act, is published or such further date as may be stipulated by the State Government (hereafter in this Part referred to as the effective date), any property, interest in property, rights and liabilities which immediately

before the effective date belonged to the State Electricity Board (hereinafter referred to as the Board) shall vest in the State Government on such terms as may be agreed between the State Government and the Board.

(2) Any property, interest in property, rights and liabilities vested in the State Government under sub-section (1) shall be re-vested by the State Government in a Government company or in a company or companies, in accordance with the transfer scheme so published along with such other property, interest in property, rights and liabilities of the State Government as may be stipulated in such scheme, on such terms and conditions as may be agreed between the State Government and such company or companies being State Transmission Utility or generating company or transmission licensee or distribution licensee, as the case may be:

Provided that the transfer value of any assets transferred hereunder shall be determined,. as far as may be, based on the revenue potential of such assets at such terms and conditions as may be agreed between the State Government and the State Transmission Utility or generating company or transmission licensee or distribution licensee, as the case may be.

(3) Notwithstanding anything contained in this section, where,-

(a) the transfer scheme involves the transfer of any property or rights to any person or undertaking not wholly owned by the State Government, the scheme shall give effect to the transfer only for fair value to be paid by the transferee to the State Government;

(b) a transaction of any description is effected in pursuance of a transfer scheme, it shall be binding on all persons including third parties and even if such persons or third parties have not consented to it.

(4) The State Government may, after consulting the Government company or company or companies being State Transmission Utility or generating company or transmission licensee or distribution licensee, referred to in sub-section (2) (hereinafter referred to as the transferor), require such transferor to draw up a transfer scheme to vest in a transferee being any other generating company or transmission licensee or distribution licensee, the property, interest in property, rights and liabilities which have been vested in the transferor under this section, and publish such scheme as statutory transfer scheme under this Act.

(5) A transfer scheme under this section may-

(a) provide for the formation of subsidiaries, joint venture companies or other schemes of division, amalgamation, merger, reconstruction or arrangements which shall promote the profitability and viability of the resulting entity, ensure economic efficiency, encourage competition and protect consumer interests;

(b) define the property, interest in property, rights and liabilities to be allocated-

(i) by specifying or describing the property, rights and liabilities in question; or

(ii) by referring to all the property, interest in property, rights and liabilities comprised in a described part of the transferor's undertaking; or

(iii) partly in one way and partly in the other;

(c) provide that any rights or liabilities stipulated or described in the scheme shall be enforceable by or against the transferor or the transferee;

(d) impose on the transferor an obligation to enter into such written agreements with or execute such other instruments in favour of any other subsequent transferee as may be stipulated in the scheme;

(e) mention the functions and duties of the transferee;

(f) make such supplemental, incidental and consequential provisions as the transferor considers appropriate including provision stipulating the order as taking effect; and

(g) provide that the transfer shall be provisional for a stipulated period.

(6) All debts and obligations incurred, all contracts entered into and all matters and things engaged to be done by the Board, with the Board or for the Board, or the State Transmission Utility or generating company or transmission licensee or distribution licensee, before a transfer scheme becomes effective shall, to the extent specified in the relevant transfer scheme, be deemed to have been incurred, entered into or done by the Board, with the Board or for the State Government or the transferee and all suits or other legal proceedings instituted by or against the Board or transferor, as the case may be, may be continued or instituted by or against the State Government or concerned transferee as the case may be.

(7) The Board shall cease to be charged with and shall not perform the functions and duties with regard to transfers made on and after the effective date.

Explanation:- For the purposes of this Part,-

(a) "Government Company" means a Government company formed and registered under the Companies Act, 1956 (1 of 1956);

(b) "Company" means a company to be formed and registered under the Companies Act, 1956 (1 of 1956) to undertake generation or transmission or distribution in accordance with the scheme under this Part.

132. Use of proceeds of sale or transfer of Board, etc.:- In the event that a Board or any utility owned or controlled by the Appropriate Government is sold or transferred in any manner to a person who is not owned or controlled by the Appropriate Government, the proceeds from such sale or transfer shall be utilised in priority to all other dues in the following order, namely:-

(a) dues (including retirement benefits due) to the officers and employees of such Board or utility, who have been affected by the aforesaid sale or transfer;

(b) payment of debt or other liabilities of the transferor as may be required by the existing loan covenants.

133. Provisions relating to officers and employees:- (1) The State Government may, by a transfer scheme, provide for the transfer of the officers and employees to the transferee on the vesting of properties, rights and liabilities in such transferee as provided under section 131.

(2) Upon such transfer under the transfer scheme, the personnel shall hold office or service under the transferee on such terms and conditions as may be determined in accordance with the transfer scheme;

Provided that such terms and conditions on the transfer shall not in any way be less favourable than those which would have been applicable to them if there had been no such transfer under the transfer scheme.

Provided further that the transfer can be provisional for a stipulated period.

Explanation:- For the purposes of this section and the transfer scheme, the expression "officers and employees" shall mean all officers and employees who on the date specified in the scheme are the officers and employees of the Board or transferor, as the case may be.

134. Payment of compensation or damages on transfer:- Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947) or any other law for the time being in force and except for the provisions made in this Act, the transfer of the employment of the officers and employees referred to in sub-section (1) of section 133 shall not entitle such officers and employees to any compensation or damages under this Act, or any other Central or State Law, save as provided in the transfer scheme.

PART XIV

OFFENCES AND PENALTIES

135. Theft of electricity:- (1) Whoever, dishonestly,-

(a) taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, or service wires, or service facilities of a licensee; or

(b) tampers a meter, installs or uses a tampered meter, current reversing transformer, loop connection or any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted; or

(c) damages or destroys an electric meter, apparatus, equipment, or wire or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electricity.

so as to abstract or consume or use electricity shall be punishable with imprisonment for a term which may extend to three years or with fine or with both;

Provided that in a case where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use-

(i) does not exceed 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction the fine imposed shall not be less than six times the financial gain on account of such theft of electricity.

(ii) exceeds 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction, the sentence shall be imprisonment for a term not less than six months but which may extend to five years and with fine not less than not times the financial gain on account of such theft of electricity;

Provided further that if it is proved that six artificial means or means not authorised by the Board or licensee exist for the abstraction, consumption or use of electricity by the consumer, it shall be presumed, until the contrary is proved, that any abstraction, consumption or use of electricity has been dishonestly caused by such consumer.

(2) Any officer authorised in this behalf by the State Government may-

(a) enter, inspect, break open and search any place or premises in which he has reason to believe that electricity has been, is being, or is likely to be, used unauthorisedly;

(b) search, seize and remove all such devices, instruments, wires and any other facilitator or article which has been, is being, or is likely to be, used for unauthorised use of electricity;

(c) examine or seize any books or account or documents which in his opinion shall be useful for or relevant to, any proceedings in respect of the offence under sub-section (1) and allow the person from whose custody such books of account or documents are seized to make copies thereof or take extracts therefrom in his presence.

(3) The occupant of the place of search or any person on his behalf shall remain present during the search and a list of all things seized in the course of such search shall be prepared and delivered to such occupant or person who shall sign the list:

Provided that no inspection, search and seizure of any domestic places or domestic premises shall be carried out between sunset and sunrise except in the present of an adult male member occupying such premises.

(4) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to search and seizure shall apply, as far as may be, to searches and seizure under this Act.

136. Theft of electric lines and materials:- (1) Whoever, dishonestly-

(a) cuts or removes or takes away or transfers any electric line, material or meter from a tower, pole, any other installation or place of installation or any other place, or site where it may be rightfully or lawfully stored, deposited, kept, stocked, situated or located, including during transportation, without the consent of the licensee or the owner, as the case may be, whether or not the act is done for profit or gain; or

(b) stores, possesses or otherwise keeps in his premises, custody or control, any electric line, material or meter without the consent of the owner, whether or not the act is committed of profit or gain; or

(c) loads, carries, or moves from one place to another any electric line, material or meter without the consent of its owner, whether or not the act is done for profit or gain,

is said to have committed an offence of theft of electric lines and materials, and shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

(2) If a person, having been convicted of an offence punishable under sub-section (1) is again guilty of an offence punishable under that sub-section, he shall be punishable for the second or subsequent offence for a term of imprisonment which shall not be less than six months but which may extend to five years and shall also be liable to fine which shall not be less than ten thousand rupees.

137. Punishment for receiving stolen property:- Whoever, dishonestly receives any stolen electric line or material knowing or having reasons to believe the same to be stolen property, shall be punishable with imprisonment of either description for a term which may extend to three years or with fine or with both.

138. Interference with meters or works of licensee:- (1) Whoever,-

(a) unauthorisedly connects any meter, indicator or apparatus with any electric line through which electricity is supplied by a licensee or disconnects the same from any such electric line; or

(b) unauthorisedly reconnects any meter, indicator or apparatus with any electric line or other works being the property of a licensee when the said electric line or other works has or have been cut or disconnected; or

(c) lays or causes to be laid, or connects up any works for the purpose of communicating with any other works belonging to a licensee; or

(d) maliciously injures any meter, indicator, or apparatus belonging to a licensee or wilfully or fraudulently alters the index of any such meter, indicator or apparatus or prevents any such meter, indicator or apparatus from duly registering.

shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten thousand rupees, or with both, and in the case of a continuing offence, with a daily fine which may extend to five hundred rupees; and if it is proved that any means exist for making such connection as is referred to in clause (a) or such reconnection as is referred to in clause (b), or such communication as is referred to in clause (c), for causing such alteration or prevention as is referred to in clause (d), and that the meter, indicator or apparatus is under the custody or control of the consumer, whether it is his property or not, it shall be presumed, until the contrary is proved, that such connection, reconnection, communication, alteration, prevention or improper use, as the case may be, has been knowingly and wilfully caused by such consumer.

139. Negligently wasting electricity or injuring works:- Whoever, negligently causes electricity to be wasted, or diverted or negligently breaks, injures, throws down or damages any material connected with the supply of electricity, shall be punishable with fine which may extend to ten thousand rupees.

140. Penalty for maliciously wasting electricity or injuring works:- Whoever, maliciously causes electricity to be wasted or diverted, or, with intent to cut off the supply of electricity, cuts or injures, or attempts to cut or injure, any electric supply line or works, shall be punishable with fine which may extend to ten thousand rupees.

141. Extinguishing public lamps:- Whoever, maliciously extinguishes any public lamp shall be punishable with fine which may extend to two thousand rupees.

142. Punishment for non-compliance of directions by Appropriate Commission:- In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person has contravened any of the provisions of this Act or the rules or regulations made thereunder, or any direction issued by the Commission, the Appropriate Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, which shall not exceed one lakh rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction.

143. Power to adjudicate:- (1) For the purpose of adjudging under this Act, the Appropriate Commission shall appoint any of its Members to be an adjudicating officer for holding an inquiry in such manner as may be prescribed by the Appropriate Government, after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject -matter of the inquiry, and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of section 29 or section 33 or section 43, he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

144. Factors to be taken into account by adjudicating officer:- While adjudicating the quantum of penalty under section 29 or section 33 or section 43, the adjudicating officer shall have due regard to the following factors, namely:-

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the repetitive nature of the default.

145. Civil Court not to have jurisdiction:- No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an assessing officer referred to in section 126 or an appellate authority referred to in section 127 or the adjudicating officer appointed under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

146. Punishment for non-compliance of orders of directions:- Whoever, fails to comply with any order or direction given under this Act, within such time as may be specified in the said order or direction or contravenes or attempts or abets the contravention of any of the provisions of this Act or any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one lakh rupees, or with both in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to five thousand rupees for every day during which the failure continues after conviction of the first such offence.

147. Penalties not to affect other liabilities:- The Penalties imposed under this Act shall be in addition to, and not in derogation of, any liability in respect of payment of compensation or, in the case of a licensee, the revocation of his licence which the offender may have incurred.

148. Penalty where works belong to Government:- The Provisions of this Act shall, so far as they are applicable, be deemed to apply also when the acts made punishable thereunder are committed in the case of electricity supplied by or of works belonging to the Appropriate Government.

149. Offences by companies:- (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of having committed the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of having committed such offence and shall be liable to be proceeded against and punished accordingly.

Explanation:- For the purposes of this section,-

(a) "Company" means a body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

150. Abetment:- (1) Whoever abets an offence punishable under this Act, shall, notwithstanding anything contained in the Indian Penal Code (45 of 1860), be punished with the punishment provided for the offence.

(2) Without prejudice to any penalty or fine which may be imposed or prosecution proceeding which may be initiated under this Act or any other law for the time being in force, if any officer or other employee of the Board or the licensee enters into or acquiesces in any agreement to do, abstains from doing, permits, conceals or connives at any act or thing whereby any theft of electricity is committed, he shall be punishable with imprisonment for a term which may extend to three years, or with both.

151. Cognizance of offences:- No Court shall take cognizance of an offence punishable under this Act except upon a complaint in writing by Appropriate Government or Appropriate Commission or any of their officer authorised by them or a Chief Electrical Inspector or an Electrical Inspector or licensee or the generating company, as the case may be, for this purpose.

152. Compounding of offences:- (1) Notwithstanding anything contained in the Code of Criminal Procedure 1973 (2 of 1974), the Appropriate Government or any officer authorised by it in this behalf may accept from any consumer or person who committed or who is reasonably suspected of having committed an offence of theft of electricity punishable under this Act, a sum of money by way of compounding of the offence as specified in the Table below:

TABLE

Nature of Service	Rate at which the sum of money for compounding to be collected per Kilowatt (KW)/ Horse Power (HP) or part thereof for Low Tension (LT) supply and per Kilo Volt Ampere (KVA) of contracted demand for High Tension (HT)
1	2
1. Industrial Service	Twenty thousand rupees;
2. Commercial Service	Ten thousand rupees;
3. Agricultural Service	Two thousand rupees;
4. Other Services	Four thousand rupees:

Provided that the Appropriate Government may, by notification in the Official Gazette, amend the rates specified in the Table above.

(2) On payment of the sum of money in accordance with sub-section (1), any person in custody in connection with that offence shall be set at liberty and no proceedings shall be instituted or continued against such consumer or person in any criminal Court.

(3) The acceptance of the sum of money for compounding and offence in accordance with sub-section (1) by the Appropriate Government or an officer empowered in this behalf shall be deemed to amount to an acquittal within the meaning of section 300 of the Code of Criminal Procedure, 1973 (2 of 1974).

(4) The Compounding of an offence under sub-section (1) shall be allowed only once for any person or consumer.

PART - XV
SPECIAL COURTS

153. Constitution of Special Courts:- (1) The State Government may, for the purposes of providing speedy trail of offences referred to in sections 135 to 139, by notification in the Official Gazette, constitute as many Special Courts as may be necessary for such area or areas, as may be specified in the notification.

(2) A Special Court shall consist of a single Judge who shall be appointed by the State Government with the concurrence of the High Court.

(3) A person shall not be qualified for appointment as a Judge of a Special Court unless he was, immediately before such appointment, an Additional District and Sessions Judge.

(4) Where the office of the Judge of a Special Court is vacant, or such Judge is absent from the ordinary place of sitting of such Special Court, or he is incapacitated by illness or otherwise for the performance of his duties, any urgent business in the Special Court shall be disposed of-

(a) by a Judge, if any, exercising jurisdiction in the Special Court;

(b) where there is no such other Judge available, in accordance with the direction of District and Sessions Judge having Jurisdiction over the ordinary place of sitting of Special Court, as notified under sub-section (1).

154. Procedure and Power of Special Court:- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under sections 135 to 139 shall be triable only by Special Court within whose jurisdiction such offence has been committed.

(2) Where is appears to any court in the Course of any inquiry or trial that an offence punishable under sections 135 to 139 in respect of any offence that the case is one which is triable by a Special Court constituted under this Act for the area in which such case has arisen, it shall transfer such case to such Special Court, and thereupon such case shall be tried and disposed of by such Special Court in accordance with the provisions of this Act;

Provided that it shall be lawful for such Special Court to act on the evidence, if any, recorded by any court in the case of presence of the accused before the transfer of the case to any Special Court.

Provided further that if such Special Court is of opinion that further examination, cross-examination and re-examination of any of the witnesses whose evidence has already been recorded, is required in the interest of justice,. it may re-summon any such witness and after such further examination, cross-examination or re-examination, if any, as it may permit, the witness shall be discharged .

(3) The Special Court may, notwithstanding anything contained in sub-section (1) of section 260 or section 262 of the Code of Criminal procedure, 1973, (2 of 1974), try the offence referred to in sections 135 to 139 in a summary way in accordance with the procedure prescribed in the said Code and the provisions of sections 263 to 265 of the said Code shall, so far as may be, apply to such trial:

Provided that where in the Course of summary trial under this sub-section, it appears to the Special Court that the nature of the case is such that it is undesirable to try such case in summary way, the Special Court shall recall any witness who may have been examined and proceed to re-hear the case in the manner provided by the provisions of the said Code for the trial of such offence:

Provided further that in the case of any conviction in a summary trial under this section, it shall be lawful for a Special Court to pass a sentence of imprisonment for a term not exceeding five years.

(4) A Special Court may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to, any offence tender pardon to such person on condition of his making a full and true disclosure of the circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or abettor in the commission thereof, and any pardon so tendered shall, for the purposes of section 308 of the Code of Criminal Procedure, 1973 (2 of 1974), be deemed to have been tendered under section 307 thereof.

(5) The Special Court may determine the civil liability against a consumer or a person in terms of money for theft of energy which shall not be less than an amount equivalent to two times of the tariff rate applicable for a period of twelve months proceeding the date of detection of theft of energy or the exact period of theft if determined whichever is less and the amount of civil liability so determined shall be recovered as if it were a decree of civil court.

(6) In case the civil liability so determined finally by the Special Court is less than the amount deposited by the consumer or the person, the excess amount so deposited by the consumer or the person, to the Board or licensee or the concerned person, as the case may be, shall be refunded by the Board or license or the concerned person, as the case may be, within a fortnight from the date of communication of the order of the Special Court together with interest at the prevailing Reserve Bank of India prime lending rate for the period from the date of such deposit till the date of payment.

Explanation:- For the purposes of this section, "civil liability" means loss or damage incurred by the Board or licensee or the concerned person, as the case may be, due to the commission of an offence referred to in sections 135 to 139.

155. Special Court to have powers of court of session:- Save as otherwise provided in this Act, the Code of Criminal Procedure, 1973 (2 of 1974), insofar as they are not inconsistent with the provisions of this Act, shall apply to the proceedings before the Special Court and for the purpose of the provisions of the said enactments, the Special Court shall be deemed to be a Court of Session and shall have all powers of a Court of Session and the person conducting a prosecution before the Special Court shall be deemed to be a Public Prosecutor.

156. Appeal and revision:- The High Court may exercise, so far as may be applicable, all the powers conferred by the Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 (2 of 1974), as if the Special Court within the local limits of the jurisdiction of the High Court is a District Court, or as the case may be, the Court of Session, trying cases within the local limits of jurisdiction of the High Court.

157. Review:- The Special Court may, on a petition or otherwise and in order to prevent miscarriage of justice, review its judgement or order passed under section 154, but no such review petition shall be entertained except on the ground that it was such order passed under a mistake of fact, ignorance of any material fact or any error apparent on the face of the record:

Provided that the Special Court shall not allow any review petition and set aside its previous order or judgement without hearing the parties affected.

Explanation:- For the purposes of this Part, "Special Courts" means the Special Courts constituted under sub-section (1) of section 153.

PART - XVI
DISPUTE RESOLUTION
Arbitration

158. Arbitration:- Where any matter is, by or under this Act, directed to be determined by arbitration, the matter shall, unless it is otherwise expressly provided in the licence of a licensee, be determined by such person or persons as the Appropriate Commission may nominate in that behalf on the application of either party; but in all other respects the arbitration shall be subject to the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996).

PART -XVII
OTHER PROVISIONS
Protective clauses

159. Protection of railways, highways, airports and canals, docks, wharfs and piers:- No person shall, in the generation, transmission, distribution, supply or use of electricity, in any way injure and railway, highway, airports, tramway, canal or waterway or any dock, wharf or pier vested in or controlled by a local authority, or obstruct or interfere with the traffic on any railway, airway, tramway, canal and water-way.

160. Protection of telegraphic, telephonic and electric signalling lines:- (1) Every person generating, transmitting, distributing, supplying or using electricity (hereafter in this section referred to as the "operator") shall take all reasonable precautions in constructing, laying down and placing his electric lines, electrical plant and other works and in working his system, so as not injuriously to effect, whether by induction or otherwise, the working of any wire or line used for the purpose of telegraphic, telephone or electric signalling communication, or the currents in such wire or line.

(2) Where any difference or dispute arises between the operator, and the telegraph authority as to whether the operator has constructed, laid down or placed his electric lines, electrical plant or other works, or worked his system, in contravention of sub-section (1), or as to whether the working of any wire, line or current is or is not injuriously affected thereby, the matter shall be referred to the Central Government and the Central Government, unless it is of opinion that the wire or line has been placed in unreasonable proximity to the electric lines, electrical plant or works of the operator after the construction of such lines, plant or works, may direct the operator to make such alterations in, or additions to, his system as may be necessary in order to comply with the provisions of this section, and the operator shall make such alterations or additions accordingly:

Provided that nothing in this sub-section shall apply to the repair, renewal or amendment of any electric line or electrical plant so long as the course of the electric line or electrical plant and the amount and nature of the electricity transmitted thereby are not altered.

(3) Where the operator makes default in complying with the requirements of this section, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

Explanation.- For the purposes of this section, a telegraph line shall be deemed to be injuriously affected if telegraphic, telephonic or electric signalling communication by means of such line is, whether through induction or otherwise, prejudicially interfered with by an electric line, electrical plant or other work or by any use made thereof.

161. Notice of accidents and inquires:- (1) If any accident occurs in connection with the generation, transmission, distribution, supply or use of electricity in or in connection with, any part of the electric lines or electrical plant of any person and the accident results or is likely to have resulted in loss of human or animal life or in any injury to a human being or an animal, such person shall give notice of the occurrence and of any such loss or injury actually caused by the accident, in such form and within such time as may be prescribed, to the Electrical Inspector of such other person as aforesaid and to such other authorities as the Appropriate Government may by general or special order, direct.

(2) The Appropriate Government may, if it thinks fit, require any Electrical Inspector, or any other person appointed by it in this behalf, to inquire and report-

(a) as to the cause of any accident affecting the safety of the public, which may have been occasioned by or in connection with, the generation, transmission, distribution, supply or use of electricity, or

(b) as to the manner in, and extent to, which the provisions of this Act or rules and regulations made thereunder or of any license, so far as those provisions affect the safety of any person, have been complied with.

(3) Every Electrical Inspector or other person holding an inquiry under sub-section (2) shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908) for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects, and every person required by an Electrical Inspector be legally bound to do so within the meaning of section 176 of the Indian Penal Code (45 of 1860).

162. Appointment of Chief Electrical Inspector and Electrical Inspector:- (1) The Appropriate Government may, by notification, appoint duly qualified persons to be Chief Electrical Inspector or Electrical Inspectors and every such inspector so appointed shall exercise the powers and perform the functions of a Chief Electrical Inspector or an Electrical Inspector under this Act and exercise such other powers and perform such other functions as may be prescribed within such areas or in respect of such class of works have and electrical installations and subject to such restrictions as the Appropriate Government may direct.

(2) In the absence of express provisions to the contrary in this Act, or any rule made thereunder, an appeal shall lie from the decision of a Chief Electrical Inspector or an Electrical Inspector to the Appropriate Government or if the Appropriate Government, by general or special order so directs, to an Appropriate Commission.

163. Power for licensee to enter premises and to remove fittings or other apparatus of licensee:- (1) A licensee or any person duly authorised by a licence may, at any reasonable time, and on informing the occupier of his intention, enter any premises to which electricity is, or has been, supplied by him, of any premises or land, under, over, along, across, in or upon which the electric supply-lines or other works have been lawfully placed by him for the purpose of-

(a) inspecting, testing, repairing or altering the electric supply-lines, meters, fittings, works and apparatus for the supply of electricity belonging to the licensee; or

(b) ascertaining the amount of electricity supplied or the electrical quantity contained in the supply; or

(c) removing where a supply of electricity is no longer required, or where the licensee is authorised to take away and cut off such supply, any electric supply-lines, meters, fittings, works or apparatus belonging to the licensee.

(2) A licensee or any person authorised as aforesaid may also, in pursuance of a special order in this behalf made by an Executive Magistrate and after giving not less than twenty-four hours notice in writing to the occupier-

(a) enter any premises or land referred to in sub-section (1) for any of the purposes mentioned therein;

(b) enter any premises to which electricity is to be supplied by him, for the purpose of examining and testing the electric wires fittings, works and apparatus for the use of electricity belonging to the consumer.

(3) Where a consumer refuses to allow a licensee or any person authorised as aforesaid to enter his premises or land in pursuance of the provisions of sub-section (1) or, sub-section (2), when such licensee or person has so entered, refuses to allow him to perform any act which he is authroised by those sub-sections to perform, or fails to give reasonable facilities for such entry or performance, the licensee may, after the expiry of twenty-four hours from the service of a notice in writing on the consumer, cut off the supply to the consumer for so long as such refusal or failure continues, but for no longer.

164. Exercise of powers of Telegraph Authority in certain cases:- The Appropriate Government may, by order in writing, for the placing of electric lines or electrical plant for the transmission of electricity or for the purpose of telephonic or telegraphic communications necessary for the proper co-ordination of works, confer upon any public officer, licensee or any other person engaged in the business of supplying electricity under this Act, subject to such conditions and restrictions, if any, as the Appropriate Government may think fit to impose and to the provisions of the Indian Telegraph Act, 1885 (13 of 1885), any of the powers which the telegraph authority possesses under that Act with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained, by the Government or to be so established or maintained.

165. Amendment of sections 40 and 41 of Act 1 of 1894:- (1) In section 40, sub-section (1) of clause (b) and section 41, sub-section (5) of the Land Acquisition Act, 1894, the term "work" shall be deemed to include electricity supplied or to be supplied by means of the work to be constructed.

(2) The Appropriate Government may, on recommendation of the Appropriate Commission in this behalf, if it thinks fit, on the application of any person, not being a company desirous of obtaining any land for its purposes, direct that he may acquire such land under the provisions of the Land Acquisition Act, 1894 (1 of 1894) in the same manner and on the same conditions as it might be acquired if the person were a company.

PART - XVIII
MISCELLANEOUS

166. Co-ordination Forum:- (1) The Central Government shall constitute a co-ordination forum consisting of the Chairperson of the Central Commission and Members thereof, the Chairperson of the Authority, representative of generating companies and transmission licensees engaged in inter-State transmission of electricity for smooth and coordinated development of the power system in the country.

(2) The Central Government shall also constitute a forum of regulators consisting of the Chairperson of the Central Commission and Chairpersons of the State Commissions.

(3) The Chairperson of the Central Commission shall be the Chairperson of the Forum of regulators referred to in sub-section (2).

(4) The State Government shall constitute a Coordination Forum consisting of the Chairperson of the State Commission and members thereof representatives of the generating companies, transmission licensee and distribution licensee engaged in generation, transmission and distribution of electricity in that State for smooth and coordinated development of the power system in the State.

(5) There shall be a committee in each district to be constituted by the Appropriate Government-

(a) to coordinate and review the extension of electrification in each district;

(b) to review the quality of power supply and consumer satisfaction;

(c) to promote energy efficiency and its conservation.

167. Exemption of electric lines or electrical plants from attachment in certain cases:- Where any electric lines or electrical plant, belonging to a licensee are placed in or upon any premises or land not being in the possession of the licensee, such electric lines or electrical plant shall not be liable to be taken in execution under any process of any civil court or in any proceedings in insolvency against the person in whose possession the same may be.

168. Protection of action taken in good faith:- No suit, prosecution or other proceeding shall lie against the Appropriate Government or Appellate Tribunal or the Appropriate Commission or any officer of Appropriate Government, or any Member, Officer or other employee of the Appellate Tribunal or any Members, officer or other employees of the Appropriate Commission or the assessing officer or any public servant for anything done or in good faith purporting to be done under this Act or the rules or regulations made thereunder.

169. Members, officers, etc., of Appellate Tribunal, Appropriate Commission to be public servants:- The Chairperson, Members, officers and other employees of the Appellate Tribunal and the Chairperson, Members, Secretary, officers and other employees of the Appropriate Commission and the assessing officer referred to in section 126 shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

170. Recovery of penalty payable under this Act:- Any penalty payable by a person under this Act, if not paid, may be recovered as if it were an arrear of land revenue.

171. Services of notices, orders or documents:- (1) Every notice, order or document by or under this Act required, or authorised to be addressed to any person may be served on him by delivering the same after obtaining signed acknowledgement receipt therefor or by registered post or such means of delivery as may be prescribed-

(a) where the Appropriate Government is the addressee, at the office of such officer as the Appropriate Government may prescribe in this behalf;

(b) where the Appropriate Commission is the addressee, at the office of the Appropriate Commission;

(c) Where a Company is the addressee, at the registered office of the company or, in the event of the registered office of the company not being in India, at the head office of the company in India;

(d) where any other person is the addressee, at the usual or last known place of abode or business of the person.

(2) Every notice, order or document by or under this Act required or authorised to be addressed to the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the

description of the owner or occupier of the premises (naming the premises), and may be served by delivering it, or a true copy thereof, to some person on the premises, or if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.

172. Transitional provisions:- Notwithstanding anything to the contrary contained in this Act,-

(a) a State Electricity Board constituted under the repealed laws shall be deemed to be the State Transmission Utility and a licensee under the provisions of this Act for a period of one year from the appointed date or such earlier date as the State Government may notify, and shall perform the duties and functions of the State Transmission Utility and a licensee in accordance with the provisions of this Act and rules and regulations made thereunder;

Provided that the State Government may, by notification, authorise the State Electricity Board to continue to function as the State Transmission Utility or a licensee for such further period beyond the said period of one year as may be mutually decided by the Central Government and the State Government;

(b) All licences, authorisations, approvals, clearances and permissions granted under the provisions of the repealed laws may, for a period not exceeding one year from the appointed date or such earlier period, as may be notified by the Appropriate Government, continue to operate as if the repealed laws were in force with respect to such licenses, authorisations, approvals, clearances and permissions, as the case may be, and thereafter such licenses, authroisations, approvals, clearances and permissions shall be deemed to be licences, authorisations, approvals, clearances and permissions shall be deemed to be licences, authorisations, approvals, clearances and permission under this Act and all provisions of this Act shall apply accordingly to such licences, authorisations, approvals, clearances and permissions;

(c) the undertaking of the State Electricity Boards established under section 5 of the Electricity (Supply) Act, 1948 (54 of 1948) may after the expiry of the period sepcified in clause (a) be transferred in accordance with the provisions of Part - XIII of this Act;

(d) the State Government may, by notification, declare that any or all the provisions contained in this Act, shall not apply in that State for such period, not exceeding six months from the appointed date, as may be stipulated in the notification.

173. Inconsistency in laws:- Nothing contained in this Act or any rule or regulation made thereunder or any instrument having effect by virtue of this Act, rule or regulation shall have effect in so far as it is inconsistent with any other provisions of the Consumer Protection Act, 1986 (68 of 1986) or the Atomic Energy Act, 1962 (33 of 1962) or the Railways Act, 1989 (24 of 1989).

174. Act to have overriding effect:- Save as otherwise provided in section 173, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

175. Provisions of this Act to be in addition to and not in derogation of other laws:- The provisions of this Act are in addition to and not in derogation of any other law for the time being in force.

176. Power of Central Government to make rules:- (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the time within which the objection and suggestions on the draft National Electricity Plan to be invited by the Authority under the proviso to sub-section (4) of section 3;

(b) the additional requirements (including the capital adequacy, creditworthiness or code of conduct) under sixth proviso to section 14;

(c) the payment of fees for application for grant of licence under sub-section(1) of section 15;

(d) the constitution and functions of the National Load Despatch Centre under sub-section (2) of section 26;

(e) the works of licensees affecting the property of owner or occupier under sub-section (2) of section 67;

(f) such other cases which may be prescribed under clause(c) of sub-section(2) of section 68;

(g) allowances and fees payable to other Members for attending the meetings of Authority under sub-section (14) of section 70;

(h) other terms and conditions of service of the Chairperson and Members of the Authority under sub-section (15) of section 70;

(i) the functions and duties of the Central Electricity Authority under section 73;

(j) the salary, allowances and other conditions of service of Chairperson and Member of Central Commission under sub-section (2) of section 89;

(k) the form and manner in which and the authority before whom oath of office and secrecy should be subscribed under sub-section (3) of section 89;

(l) the procedure to be prescribed by the Central Government under the proviso to sub-section (2) of section 90;

(m) any other matter required to be prescribed under clause(g) of sub-section (1) of section 94;

(n) the form in which the Central Commission shall prepare its annual statement of accounts under sub-section (1) of section 100;

(o) the form in which and time at which the Central Commission shall prepare its annual report under sub-section (1) of section 101;

(p) the form in which and time at which the Central Commission shall prepare its budget under section 106;

(q) the form and manner of verifying such form, and fee for filing appeal under sub-section (2) of section 111;

(r) the salary and allowances payable to and the other terms and conditions of service of the Chairperson of the Appellate Tribunal and Members of the Appellate Tribunal under section 115;

(s) the salary and allowances and other conditions of service of the officers and employees of the Appellate Tribunal under sub-section (3) of section 119;

(t) the additional matters in respect of which the Appellate Tribunal may exercise the powers of a civil Court under clause (i) of sub- section (2) of section 120;

(u) the authority to whom the appeal shall be filed under sub-section (1) of section 127;

(v) manner of holding inquiry by an adjudicating officer under sub-section (1) of section 143;

(w) the form in which and the time at which service of notices to any person or to the Central Government for the purpose under sub-section (1) of section 161;

(x) the powers to be exercised and the functions to be performed by the Inspectors under sub-section (1) of section 162;

(y) the manner of delivery of every notice, order or document to be served under sub-section (1) of section 171;

(z) any other matter which is required to be, or may be, prescribed.

177. Powers of Authority to make regulations:- (1) The Authority may, by notification, make regulations consistent with this Act and the rules generally to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the power conferred in sub-section (1), such regulations may provide for all or any of the following matters, namely:-

(a) the Grid Standards under section 34;

(b) suitable measures relating to safety and electric supply under section 53;

(c) the installation and operation of meters under section 55;

(d) the rules of procedure for transaction of business under sub-section (9) of section 70;

(e) the technical standards for construction of electrical plants and electric lines and connectivity to the grid under clause (b) of section 73;

(f) the form and manner in which and the time at which the State Government and licensees shall furnish statistics, returns or other information under section 74;

(g) any other matter which is to be, or may be, specified;

(3) All regulations made by the Authority under this Act shall be subject to the conditions or previous publication.

178. Powers of Central Commission to make regulations:- (1) The Central Commission may, by notification make regulations consistent with this Act and the rules generally to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the power contained in sub-section (1), such regulations may provide for all or any of following matters, namely:-

(a) period to be specified under the first proviso to section 14;

(b) the form and the manner of the application under sub-section (1) of section 15;

(c) the manner and particulars of notice under sub-section (2) of section 15;

(d) the conditions of licence under section 16;

(e) the manner and particulars of notice under clause (a) of sub-section (2) of section 18;

(f) publication of alterations or amendments to be made in the licence under clause (c) of sub-section (2) of section 18;

(g) Grid Code under sub-section (2) of section 28;

(h) levy and collection of fees and charge from generating companies or transmission utilities or licensees under sub-section (4) of section 28;

(i) rates, charges and terms and conditions in respect of intervening transmission facilities under proviso to section 36;

(j) payment of the transmission charges and a surcharge under sub-clause (ii) of clause (d) of sub-section (2) of section 38;

(k) reduction and elimination of surcharge and cross subsidies under second proviso to sub-clause (ii) of clause (d) of sub-section (2) of section 38;

(l) payment of transmission charges and a surcharge under sub-clause (ii) of clause (c) of section 40;

(m) reduction and elimination of surcharge and cross subsidies under the second proviso to sub-clause (ii) of clause (c) of section 40;

(n)proportion of revenues from other business to be utilised for reducing the transmission and wheeling charges under proviso to section 41;

(o) duties of electricity trader under sub-section (2) of section 52;

(p) standards of performance of a licensee or class of licensees under sub-section (1) of section 57;

(q) the period within which information to be furnished by the licensee under sub-section (1) of section 59;

(r) the period within which the cross- subsidies shall be reduced and eliminated under clause (g) of section 61;

(s) the terms and conditions for the determination of tariff under section 61;

(t) details to be furnished by licensee or generating company under sub-section (2) of section 62;

(u) the procedures for calculating the expected revenue from tariff and charges under sub-section (5) of section 62;

(v) the manner of making an application before the Central Commission and the fee payable therefor under sub-section (1) of section 64;

(w) the manner of publication of application under sub-section (2) of section 64;

(x) issue of tariff order with modifications or conditions under sub-section (3) of section 64;

(y) the manner by which development of market in power including trading specified under section 66;

(z) the powers and duties of the Secretary of the Central Commission under sub-section (1) of section 91;

(za) the terms and conditions of service of the Secretary, officers and other employees of central Commission under sub-section (3) of section 91;

(zb) the rules of procedure for transaction of business under sub-section (1) of section 92;

(zc) minimum information to be maintained by a licensee or the generating company and the manner of such information to be maintained under sub-section (8) of section 128;

(zd) the manner of service and publication of notice under section 130;

(ze) any other matter which is to be, or may be specified by regulations.

(3) All regulations made by the Central Commission under this Act shall be subject to the conditions of previous publication.

179. Rules and regulations to be laid before Parliament:- Every rule made by the Central Government, every regulation made by the Authority, and every regulation made by the Central Commission shall be laid, as soon as may be after it is made, before each House of the Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

180. Powers of State Governments to make rules:- (1) The State Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the payment of fees for application for grant of licence under sub-section (1) of section 15;

(b) the works of licensees affecting the property of other persons under sub-section(2) of section 67;

(c) such other matters which may by prescribed under clause (c) of sub-section (2) of section 68;

(d) the salary, allowances and other terms and conditions of service of the Chairperson and Members of the State Commission under sub-section (2) of section 89;

(e) the form and manner in which and the authority before whom oath of office and secrecy should be subscribed under sub-section (3) of section 89;

(f) any other matter required to be prescribed by the State Commission under clause (g) of sub-section (1) of section 94;

(g) the manner of applying the Fund under sub-section (3) of section 103;

(h) the form in which and time at which the State Commission shall prepare its annual accounts under sub-section (1) of section 104;

(i) the form in which and time at which the State Commission shall prepare its annual report under sub-section (1) of section 105;

(j) the form in which and time at which the State Commission shall prepare its budget under section 106;

(k) manner of service of provisional order of assessment under sub-section (2) of section 126;

(l) manner of holding inquiry by an adjudicating officer under sub-section (1) of section 143;

(m) the form in which and the time at which notice to the Electrical Inspector under sub-section (1) of section 161;

(n) the manner of delivery of every notice; order or document under sub-section (1) of section 171; and

(o) any other matter which is required to be, or may be, prescribed

181. Powers of State Commissions to make regulations:- (1) The State Commissions may, by notification, make regulations consistent with this Act and the rules generally to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the power contained in sub-section (1), such regulations may provide for all or any of the following matters, namely:-

(a) period to be specified under the first proviso to section 14;

(b) the form and the manner of application under sub-section (1) of section 15;

(c) the manner and particulars of application for licence to be published under sub-section (2) of section 15;

(d) the conditions of licence under section 16;

(e) the manner and particulars or notice under clause (a) of sub-section (2) of section 18;

(f) publication of the alterations or amendments to be made in the licence under clause (c) of sub-section (2) of section 18;

(g) levy and collection of fees and charges from generating companies or licensees under sub-section (3) of section 32;

(h) rates, charges and the terms and conditions in respect of intervening transmission facilities under proviso to section 36;

(i) payment of the transmission charges and a surcharge under sub-clause (ii) of clause (d) of sub-section (2) of section 39;

(j) reduction and elimination of surcharge and cross subsidies under second proviso to sub-clause (ii) of clause (d) of sub-section (2) of section 39;

(k) manner and utilisation of payment and surcharge under the fourth proviso to sub-clause (ii) of clause (d) of sub-section (2) of section 39;

(l) payment of the transmission charges and a surcharge under sub-clause (ii) of clause (c) of section 40;

(m) reduction and elimination of surcharge and cross subsidies under second proviso to sub-clause (ii) of clause (c) of section 40;

(n) the manner of payment of surcharge under the fourth proviso to sub-clause (ii) of clause (c) of section 40;

(o) proportion of revenues from other business to be utilised for reducing the transmission and wheeling charges under proviso to section 41;

(p) reduction and elimination of surcharge and cross- subsidies under the third proviso to sub-section (2) of section 42;

(q) payment of additional charges on charges of wheeling under sub-section (4) of section 42;

(r) guidelines under sub-section (5) of section 42;

(s) the time and manner for settlement of grievances under sub-section (7) of section 42;

(t) the period to be specified by the State Commission for the purposes specified under sub-section (1) of section 43;

(u) methods and principles by which charges for electricity shall be fixed under sub-section (2) of section 45;

(v) reasonable security payable to the distribution licensee under sub-section (1) of section 47;

(w) payment of interest on security under sub-section (4) of section 47;

(x) electricity supply code under section 50;

(y) the proportion of revenues from other business to be utilised for reducing wheeling charges under proviso to section 51;

(z) duties of electricity trader under sub-section (2) of section 52;

(za) standards of performance of a licensee or a class of licensees under sub-section (1) of section 57;

(zb) the period within which information to be furnished by the licensee under sub-section (1) of section 59;

(zc) the period within which the cross-subsidies shall be reduced and eliminated under clause (g) of section 61;

(zd) the terms and conditions for determination of tariff under section 61;

(ze) details to be furnished by licensee or generating company under sub-section (2) of section 62;

(zf) the methodologies and procedures for calculating the expected revenue from tariff and charges under sub-section (5) of section 62;

(zg) the manner of making an application before the State Commission and the fee payable therefor under sub-section (1) of section 64;

(zh) issue of tariff order with modifications or conditions under sub-section (3) of section 64;

(zi) the manner by which development of market in power including trading specified under section 66;

(zj) the powers and duties of the Secretary of the State Commission under sub-section (1) of section 91;

(zk) the terms and conditions of service of the Secretary, officers and other employees of the State Commission under sub-section (2) of section 91;

(zl) rules of procedure for transaction of business under sub-section (1) of section 92;

(zm) minimum information to be maintained by a licensee or the generating company and the manner of such information to be maintained under sub-section (8) of section 128;

(zn) the manner of service and publication of notice under section 130;

(zo) the form of preferring the appeal and the manner in which such form shall be verified and the fee for preferring the appeal under sub-section (1) of section 127;

(zp) any other matter which is to be, or may be, specified.

(3) All regulations made by the State Commission under this Act shall be subject to the condition of previous publication.

182. Rules and regulations to be laid before State Legislature:- Every rule made by the State Government and every regulation made by the Sate Commission shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

183. Power to remove difficulties:- (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published, make such provisions not inconsistent with the provisions of this Act, as may appear to necessary for removing the difficulty;

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

184. Provisions of Act no to apply in certain cases:- The provisions of this Act shall not apply to the Ministry of Department of the Central Government dealing with Defence, Atomic Energy or such other similar Ministries or Departments of undertakings or Boards or institutions under the control of such Ministries or Departments as may be notified by the Central Government.

185. Repeal and saving:- (1) Save as otherwise provided in this Act, the Indian Electricity Act, 1910 (9 of 1910), the Electricity (Supply) Act, 1948 (54 of 1948) and the Electricity Regulatory Commissions Act, 1998 (14 of 1998) are hereby repealed.

(2) Notwithstanding such repeal,-

(a) anything done or any action taken or purported to have been done or taken including any rule, notification, inspection, order or notice made or issued or any appointment, confirmation or declaration made or any licence, permission, authorisation or exemption granted or any document or instrument executed or any direction given under the repealed laws shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been or taken under the corresponding provisions of this Act;

(b) the provisions contained in sections 12 to 18 of the Indian Electricity Act, 1910 (1 of 1910) and rules made thereunder shall have effect until the rules under sections 67 to 69 of this Act are made;

(c) the Indian Electricity Rules, 1956 made under section 37 of the Indian Electricity Act, 1910 (9 of 1910) as it stood before such repeal shall continue to be in force till the regulations under section 53 of this Act are made.

(d) all rules made under sub-section (1) of section 69 of the Electricity (supply) Act, 1948 (54 of 1948) shall continue to have effect until such rules are rescinded or modified, as the case may be;

(e) all directives issued, before the commencement of this Act, by a State Government under the enactments specified in the Schedule shall continue to apply for the period for which such directions were issued by the State Government.

(3) The provisions of the enactments specified in the Schedule, not inconsistent with the provisions of this Act, shall apply to the States in which such enactments are applicable.

(4) The Central Government may, as and when considered necessary, by notification, amend the Schedule.

(5) Save as otherwise provided in sub-section (2), the mention of particular matters in that section, shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897), with regard to the effect of repeals.

THE SCHEDULE
ENACTMENTS
(See Sub-section (3) of section 185)

1. The Orissa Electricity Reform Act, 1995 (Orissa Act No. 2 of 1996)
2. The Haryana Electricity Reform Act, 1997 (Haryana Act No. 10 of 1998)
3. The Andhra Pradesh Electricity Reform Act, 1998 (Andhra Pradesh Act No. 30 of 1998)
4. The Uttar Pradesh Electricity Reform Act, 1999 (Uttar Pradesh Act No. 24 of 1999)
5. The Karnataka Electricity Reform Act, 1999 (Karnataka Act No. 25 of 1999)
6. The Rajasthan Electricity Reform Act, 1999 (Rajasthan Act No. 23 of 1999)
7. The Delhi Electricity Reforms Act, 2000 (Delhi Act No. 2 of 2001)
8. The Madhya Pradesh Vidyut Sudhar Adhiniyam, 2000 (Madhya Pradesh Act No. 4 of 2001).

SUBHASH C. JAIN
Secretary to the Government of India.

CORRIGENDA

In the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (No. 54 of 2002) as published in the Gazette of India Extraordinary, Part II, Section I, dated the 18th December, 2002 (Issue No. 66),-

1. At page 3,-
   (a) in line 23, for "crystallization", read "crystallisation";
   (b) in line 27, for "asset" read "assets".
2. At page 4, for lines 32 and 33, read-
   "institution,
   in whose favour security interest is created for due repayment by any borrower of any financial assistance;".
3. At page 7, in line 3, for "sich", read "such".
4. At pae 9,-
   (a) in line 17, for "fees", read "fee";
   (b) in line 45, for "company" read "company"
5. At page 11,-
   (a) in line 12, for "secure", read "secured";
   (b) in line 28, for "that liquidator", read "that the liquidator".
6. At page 12,-
   (a) in line 2, for "section, secured", read "section, the secured";
   (b) in line 3, for "measured", read "measures";
   (c) in line 10, for "assets", read "asset";
   (d) in line 11, for "assets", read "asset";
   (e) in line 13, for "assets", read "asset";
7. At page 15,-
   (a) in line 9, for "security within" read "security interest within";
   (b) in line 10, for "fees", read "fee";
   (c) in lines 14, for "creditors", read "Creditor";
   (d) in lines 18, for "creditors", read "Creditor";
   (e) in lines 21, for "creditors", read "Creditor";
   (f) in lines 24, for "creditors", read "Creditor";
   (g) in the marginal heading of s. 25, for "creditors", read "creditor";
   (i) in lines 34, for "fees", read " fee";
   (j) in lines 36, for "inspection of" , read "inspection by";
   (k) in lines 37, for "fees", read "fee";
   (l) in lines 43, for "creditors", read "creditor";
   (m) in lines 47, for "creditors", read "creditor";
8. At page 16, in line 41, for "laible", read "liable".

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

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ಎಲ್ ಸಿದ್ದಯ್ಯ
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.